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WATCH

# “Between Two Sets of Guns”

Attacks on Civil Society Activists in India’s Maoist Conflict



## **“Between Two Sets of Guns”**

Attacks on Civil Society Activists in India’s Maoist Conflict

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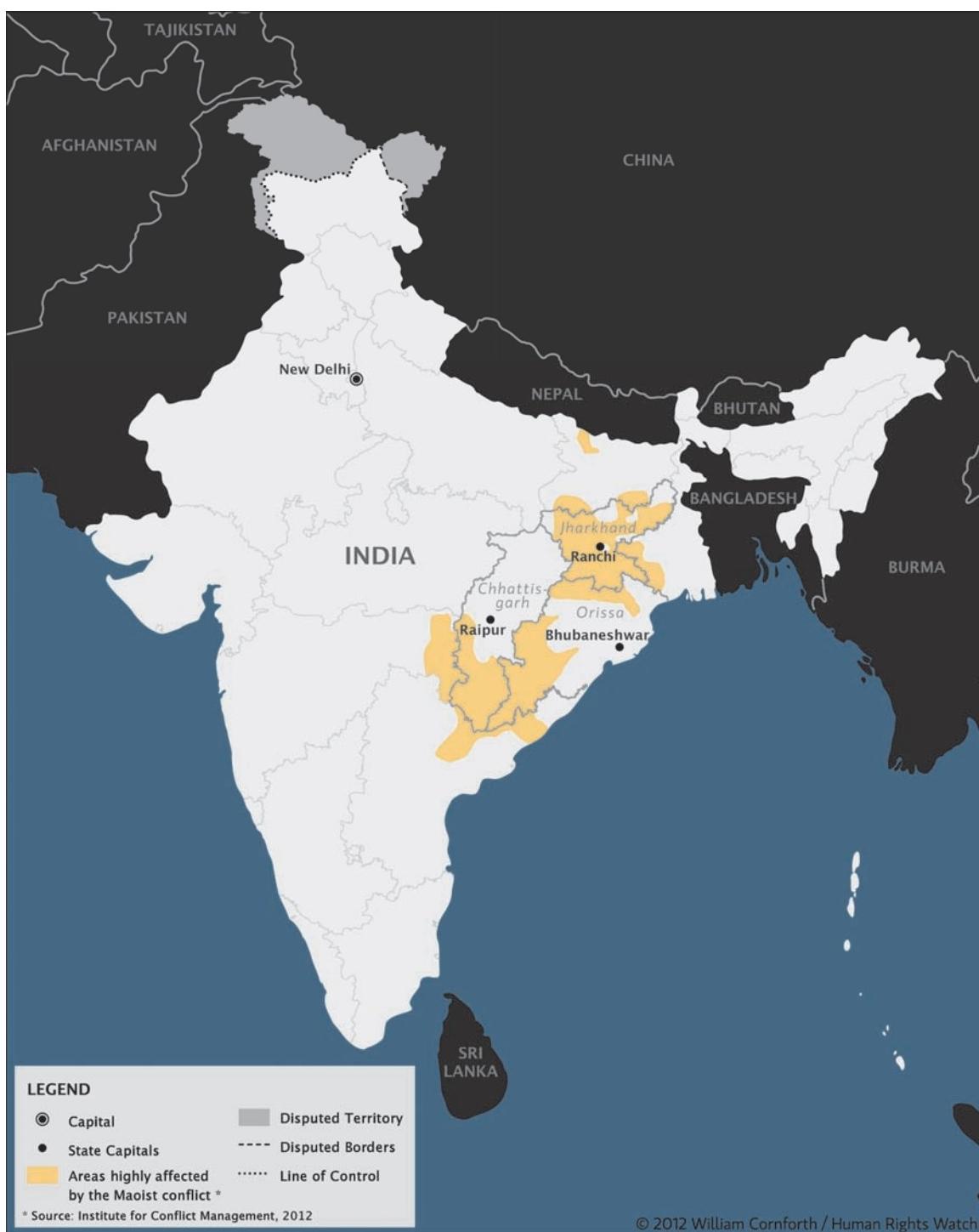
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<b>Map of India .....</b>	<b>ii</b>
<b>Summary.....</b>	<b>1</b>
<b>Key Recommendations.....</b>	<b>8</b>
<b>Methodology .....</b>	<b>9</b>
<b>I. The Conflict with the Maoists .....</b>	<b>11</b>
The Maoists.....	12
Government Response.....	14
Human Rights Abuses in the Conflict.....	17
<b>II. Abuses against Civil Society Activists.....</b>	<b>21</b>
Maoist Abuses.....	22
Killing of Niyamat Ansari, Jharkhand.....	25
Killing of Sister Valsa John, Jharkhand .....	27
Government Abuses .....	28
Arbitrary Arrests and Torture .....	28
Torture of Kopa Kunjam, Chhattisgarh.....	29
Arbitrary Detention, Mistreatment of Lingaram Kodopi, Soni Sori, Chhattisgarh.....	32
Arbitrary Arrest of Dr. S.K. Haneef, Andhra Pradesh.....	38
Torture of Rabindra Kumar Majhi, Madhusudan Badra, and Kanderam Hebram, Orissa.....	39
Arbitrary Arrest of Pratima Das, Orissa .....	42
Use of Sedition Laws against Civil Society Activists .....	43
Cases of Pratima Das, Lingaram Kodopi, and Soni Sori .....	44
Case of Dr. Binayak Sen.....	44
Harassment of Civil Society Activists.....	46
Case of Himanshu Kumar, Chhattisgarh.....	47
Case of Kartam Joga, Chhattisgarh .....	49
Case of Gladson Dungdung, Jharkhand.....	50
Case of Dandapani Mohanty, Orissa .....	52
<b>III. Recommendations .....</b>	<b>54</b>
<b>Acknowledgements.....</b>	<b>60</b>

## Map of India



## Summary

All I am doing is telling people that they should protest to protect their lives. They are stuck between two sets of guns, and they should say that they are suffering.

—Human rights activist in Chhattisgarh, 2011

The situation in Chhattisgarh is undoubtedly deeply distressing to any reasonable person. What was doubly dismaying to us was the repeated insistence ... that the only option for the State was to rule with an iron fist, establish a social order in which ... anyone speaking for human rights of citizens [is] to be deemed as suspect, and a Maoist.

—Supreme Court of India, *Nandini Sundar and others v. State of Chhattisgarh*, July 2011

Lingaram Kodopi worked on tribal rights in India's Chhattisgarh state. Both the Maoist insurgents, commonly called Naxals or Naxalites, and local government authorities, were suspicious of him. In 2009, the police detained Kodopi without legal basis for over a month, beat him, and demanded he join the security forces. In June 2011 Maoists attacked Kodopi's grandfather, shot him in the leg, and ransacked the family home, accusing the family of acting as informers. Finding himself at grave risk from both Maoists and state security forces, Kodopi decided to move to New Delhi. "There is no difference between the police in my state and the Naxals," he told a journalist.

Many civil society activists working in Maoist-affected areas are similarly finding themselves under assault from both sides. The Maoists claim to be fighting for the poor and the marginalized, demanding loyalty and shelter from villagers, while government forces seek public support in protecting those same villagers from the Maoists. But the activities of civil society activists on behalf of the impoverished and vulnerable local population put them at risk from the Maoists and government security forces alike.

The Indian prime minister has described the fight with the Maoist insurgents as India's "biggest internal security challenge." According to the Home Ministry, over 3,000 people have been killed in the Maoist conflict since 2008.

The Maoists have committed numerous serious abuses, such as targeted killings of police, political figures, and landlords. In some cases the Maoists bring alleged “enemies” before their self-declared *jan adalat*, or people’s court, where the Maoists conduct public show trials. Penalties are harsh: suspected informers are beheaded or shot. The Maoists have also abducted public officials and ordinary villagers. In March 2012 they abducted two Italian tourists and a legislator, holding them as hostages in exchange for the release of captured Maoist fighters. In April they abducted a district administrator after killing his bodyguards. They have also attacked schools and health centers as symbols of the government.

The security response of the government to the Maoist threat has resulted in serious human rights violations. State security forces—typically police and paramilitary forces—have arbitrarily arrested, detained, and tortured villagers, who are mostly from disaffected tribal communities. Unable to locate the Maoist fighters who deploy hidden in the forests and ambush soldiers on patrol, the security forces have frequently gone after the “soft target” of civilians suspected of being Maoist supporters. After Maoist ambushes, government security forces have at times assaulted villagers, and burned down their homes in retaliation.

At particular risk are grassroots civil society activists who struggle to put an end to these abuses. Often local to the community, these activists travel to remote villages to provide assistance, and invariably encounter the Maoists. The Maoists frequently accuse them of being informers, and warn them against implementing government programs. The police, meanwhile, demand that the activists serve as informers, and those who refuse risk, being labeled Maoist sympathizers.

Caught in the middle, many civil society activists have been arbitrarily arrested, tortured, or ill-treated, and then forced to face politically motivated charges ranging from murder to conspiracy and sedition. Often these cases are dropped only when prosecutors are unable to support the allegations in court. But by then the activists have already served unnecessarily long spells in detention because their bail pleas are routinely denied.

Police have often attempted to discredit human rights activists by describing them as Maoists or Maoist supporters. In July 2011 the Supreme Court expressed anguish at the Chhattisgarh government’s arbitrary assumption that all those who speak for human rights are Maoist sympathizers.

The situation is complicated by the fact that some activists do act as fronts for or are ideological supporters of the Maoists. Where this support violates the law, as when individuals deliberately provide information or assistance that aids and abets Maoist attacks or other criminal activity, the authorities have a responsibility to arrest and prosecute them in accordance with due process standards. However, the authorities should act only when they have specific credible evidence an individual has engaged in criminal acts and never on blanket assumptions that activists who criticize the authorities or have contact with Maoists, are criminally abetting Maoist crimes.

This report looks at cases where activists have come under attack or been threatened by Maoists as well as allegations of their arbitrary arrest, torture in custody, or intimidation by government forces.

\* \* \*

On the night of August 12, 2008, police arrested activist lawyer Pratima Das while she was traveling in a car with David Pugh, an American environmental activist, as they returned from a “people’s protest” in eastern Orissa state. While police released Pugh after questioning, they detained Das simply on the assumption she was a Maoist supporter. She told Human Rights Watch:

They really tried to frighten me. They asked about various Maoist leaders, and other ideologues. I said I had nothing to hide. I asked for my family, for my senior lawyer, but they refused to inform anyone. But they searched my house, and although they did not find anything, they made my brother sign a blank paper. Later I found that they had already told the media that a big Maoist leader had been arrested and that they had recovered Maoist literature from me. But the police knew I was innocent. They even said, “We know you are not involved in action. But why do you work on Maoist issues?”

Police later charged Das with attempted murder and criminal conspiracy. She was acquitted after spending nearly two-and-a-half-years in jail.

Rabindra Kumar Majhi, Madhusudan Badra, and Kanderam Hebram, who were arrested by the police in July 2008, all suffered severe beatings in custody and were coerced into falsely confessing that they were Maoists. Police first picked up Majhi on suspicion that he was involved in a Maoist attack. The police beat him and demanded that he identify his co-conspirators. Out of desperation he named his colleagues at an Orissa nongovernmental organization, the Keonjhar Integrated Rural Development & Training Institute (KIRDTI). Madhusudan Badra, a colleague of Majhi, says he met an injured Majhi at the police station:

Rabi was very badly tortured by the police. They hung him from the ceiling by his leg. Then they beat him on so hard that there was a fracture in his thigh bone. Actually Rabi was beaten so badly he gave all our names. So then we were arrested.

In July 2008, James Anaya, the United Nations (UN) special rapporteur on the rights of indigenous peoples, expressed concern that “police plans to question members of the KIRDTI may be related to their legitimate and peaceful activities in the defense of land rights of indigenous people,” and that the “physical and psychological integrity” of Majhi while in custody might be in danger. Anaya also expressed concern about other members of KIRDTI who had gone into hiding fearing torture and ill-treatment after the arrest of their colleagues. The government responded to the rapporteur claiming that all three in custody had confessed to committing crimes. All three were later acquitted.

In almost all cases where the accused is alleged to be a Maoist or a Maoist supporter, the lower courts are reluctant to grant bail. The person is forced to remain in custody during trial and often until a decision on his or her appeal is handed down by the Supreme Court. The police also routinely file serious charges such as murder or sedition, for which bail is hard to secure. Colin Gonsalves from Human Rights Law Network, which has been handling a number of such cases, said, “In the conflict zone, no trial court is willing to give bail. No judge wants their career damaged. It is very difficult. Even the High Court is not giving any bail. So we have to approach the Supreme Court.”

The authorities have also misused a colonial-era sedition law to try to secure convictions despite a 1962 Supreme Court ruling that prosecution under the law requires evidence of incitement to violence. Dr. Binayak Sen was arrested on May 14, 2007, and accused of ferrying messages for imprisoned Maoist ideologue Narayan Sanyal. Even though Sen’s

visits were under the supervision of prison authorities to provide medical and legal assistance, he was convicted of sedition in December 2010 and sentenced to life in prison. Sen appealed his verdict. In April 2011, the Supreme Court granted bail, observing that there was no evidence of sedition, but has yet to rule on his conviction. Sen is currently out on bail.

In other instances, the threat of jail is used as intimidation. One activist said that the police repeatedly threatened him: “I was told by the police: ‘We are watching. You talk too much, and you will be in jail, defending murder charges.’”

Activist Himanshu Kumar had to stop his grassroots work with the predominantly tribal population in the Bastar region of Chhattisgarh because of state intimidation. He built a network of local activists to implement government food and healthcare programs, and work on other development projects. After the Chhattisgarh government began to support the Salwa Judum vigilante movement against the Maoists in 2005, he started filing complaints against Salwa Judum abuses. He became visible in the media and during protests. The district administration suddenly declared, after decades of allowing its existence, that his organization’s office was located illegally in protected forest land. In May 2009 police demolished the structure. Unable to secure any other space in the area, and because of threats and arrests of several of his workers, Kumar moved to New Delhi. He told Human Rights Watch:

The government was angry because everyone used to meet me, and their [the government’s] crimes were no longer secret.... But it was difficult. My colleagues were arrested under false charges, even murder.... The number of violent reprisals kept increasing. I began to feel my strategy had backfired—instead of protecting them, I had made these tribal people more vulnerable. Continuing to work in Dantewada would only bring more harassment, more attacks, more arrests of people I was trying to help.

In recent years the Maoist movement has spread to nine states in central and eastern India. The Maoists have gained support in part because government-brokered land acquisition schemes for infrastructure and mining are displacing people, including many from tribal communities who rely on land and forests for their traditional livelihood. Routine police brutality, corruption in public service that fails to deliver on the government’s development

initiatives, and lack of access to resources leads to support for the Maoists who claim to defend the rights of the people. The Indian central government is aware that these disparities and abuses are fueling the conflict. In September 2011, Prime Minister Manmohan Singh, while addressing a workshop of public officials to help accelerate development projects in Maoist-dominated districts, said that policies “must be sustainable on the ground and not on paper alone.” Discussing development needs in the Maoist-affected areas, Home Minister P. Chidambaram said that left-wing extremism was the most “formidable challenge” to governance in India.

Recognizing that the government’s plans to deliver on development might undercut support for their movement, the Maoists actively oppose such efforts. They target for attack those who work on development projects, including activists. Maoist warnings are issued verbally or through posters and pamphlets displayed in prominent places.

India takes justifiable pride in its civil society. In its 2012 submission for its Universal Periodic Review (UPR) at the United Nations Human Rights Council, the government emphasized its work with civil society organizations. Responding to a previous (2010) UPR recommendation on the subject, the government noted that various departments and ministries involve “national civil society, as appropriate, in the formulation, implementation and assessment process relating to their respective policies, programmes and schemes.... We will continue to involve the national civil society in this process.”

Human rights defenders and other civil society activists are protected by international human rights law, notably the International Covenant on Civil and Political Rights, which India ratified in 1979. This includes protections for all individuals from arbitrary arrest, detention and unfair trials, torture and other ill-treatment, and enforced disappearance and arbitrary deprivation of life. They also enjoy fundamental freedoms due to all, such as the rights to freedom of expression, association, and peaceful assembly.

The UN Declaration on Human Rights Defenders of 1999 further provides that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms, to participate in peaceful activities against human rights violations, and to be protected against any violence, threats, retaliation, pressure or any other arbitrary action as a consequence of the exercise of these rights.

In practice, however, India has failed to protect activists, too many of whom have been targets of efforts to silence and intimidate them. During her January 2011 visit to India, Margaret Sekaggya, the UN special rapporteur on human rights defenders, said she was “deeply concerned about the branding and stigmatization of human rights defenders,” and urged the authorities “to clearly instruct security forces to respect the work of human rights defenders, conduct prompt and impartial investigations on violations committed against human rights defenders and prosecute perpetrators.”

The threats and attacks against civil society activists are especially troubling because their impact goes far beyond the immediate harm to the individuals affected. When humanitarian and development assistance is curtailed or ceases because those needed to deliver it cannot do their job, it is the general population that suffers, the population that the Maoists claim to represent and the government says it is trying to help. And when human rights defenders are silenced, both Maoist fighters and government security forces are able to commit abuses against ordinary people—and each other—with impunity.

# **Key Recommendations**

**The Indian government should:**

- Promptly and transparently investigate alleged abuses against civil society activists, and prosecute those responsible as appropriate. Investigate the role of senior police and administrative officials in the commission of or failure to prevent abuses; take appropriate action against those responsible, including disciplinary measures, such as removal from office, and criminal prosecution.
- Instruct police to end the practice of arbitrary detention and strictly implement the D.K. Basu guidelines on arrest and detention issued by the Supreme Court. Initiate disciplinary action against police officers who violate the guidelines.
- End the practice of filing politically motivated criminal charges and instruct prosecutors to dismiss criminal charges where the evidence is not sufficient to support the charges.
- Instruct national and state officials not to treat critics of the government and civil society activists as Maoist supporters. Instruct officials to stop discrediting rights organizations and activists through unfounded public accusations of complicity with the Maoists, which undermines their work and places them at serious personal risk.
- Repeal the colonial-era sedition law used to silence peaceful political dissent in violation of Supreme Court rulings. Drop all pending sedition cases.

**The Communist Party of India (Maoists) should:**

- Make a public commitment to respect international human rights standards, such as the rights to freedom of association and expression, in areas under Maoist control.
- End attacks on schools and hospitals.
- Cease all reprisals against people who work on government development projects and their family members.
- End obstruction of development efforts, since this only harms marginalized and deprived communities.

## Methodology

This report has its origins in an April 2011 workshop in Ranchi, Jharkhand state, led by Human Rights Watch staff to assist local capacity-building in fact-finding and documentation of human rights violations. Nearly 70 activists and journalists, working individually or for nongovernmental groups, attended the workshop. Almost all of them worked at the grassroots level, some operating in remote forest districts of Orissa, Jharkhand, and Chhattisgarh states on such issues as health, education, livelihood, environmental protection, and tribal rights. None of them had previously documented human rights violations such as arbitrary arrests, torture, and extrajudicial killings.

Human Rights Watch learned during the workshop that the targets of abuses by the Maoists and government security forces were not limited to local residents, but included the activists themselves. Because of their work and familiarity with local communities, they enjoy easy mobility in these remote areas. The Maoists typically suspect they are informers, while government authorities typically expect them to act as informers or believe them to be Maoist supporters. This report addresses the at times deadly dynamic at work.

This report is largely based on interviews conducted by Human Rights Watch from July 2011 to March 2012, primarily in Orissa, Jharkhand, and Chhattisgarh. We interviewed over 60 local residents, activists, journalists, and lawyers who were witnesses to or familiar with abuses by Indian security forces and the Maoists.

We wrote letters to the authorities in the state governments of Chhattisgarh, Orissa and Jharkhand seeking information about the cases documented in this report. As of this writing, we have had no response.

Interviews were conducted on a one-on-one basis whenever possible with follow-up conversations by email and telephone. They were primarily conducted in Hindi or English. In both the body of the report and in footnotes, identifying information has been withheld in some cases in the interest of security of those interviewed, and we have so indicated in the accompanying citations.

All those interviewed were informed of the purpose of the interview, its voluntary nature, and the ways in which it would be used. All interviewees were told they could decline to answer questions or end the interview at any time. All provided oral consent to be interviewed. None received compensation.

Orissa state is now called Odisha after a constitutional amendment in March 2011. We have used the old name in this report for consistency because some of the cases occurred prior to the name change.

## I. The Conflict with the Maoists

Naxalism remains the biggest internal security challenge facing our country.... [I]t is imperative to control Naxalism for the country's growth.

—Prime Minister Manmohan Singh, March 24, 2010<sup>1</sup>

It was a very difficult time. We worked for so many years, defending the rights of tribal communities, and now suddenly we were Maoists.

—Duskar Barik, Keonjhar Integrated Rural Development & Training Institute (KIRDTI), Orissa, July 31, 2011<sup>2</sup>

In recent years the Maoist movement has spread to nine states in central and eastern India. The Maoists have a significant presence in the states of Chhattisgarh, Orissa, Andhra Pradesh, Maharashtra, Jharkhand, Bihar, and West Bengal, and a marginal presence in Assam, Madhya Pradesh and Uttar Pradesh.

The Maoists assert that they are defending the rights of the marginalized: the poor, the landless, Dalits, and tribal indigenous communities. They call for a revolution, demanding a radical restructuring of the social, political, and economic order.<sup>3</sup> The Maoists believe the only way marginalized communities can win respect for their rights is to overthrow the existing structure by violent attacks on the state.

Various state governments have responded to this challenge by carrying out security operations to defeat the Maoist movement, provide protection for local residents, and restore law and order. The police in these states receive support from central government paramilitary forces. Various state and national forces often conduct joint operations, in part to deny the Maoists sanctuary in other states.<sup>4</sup> Because of the ineffective response by states, in 2009 the central government started to coordinate security operations.

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<sup>1</sup> “Naxalism biggest threat to internal security: Manmohan,” *The Hindu*, March 24, 2010, <http://www.thehindu.com/news/national/article436781.ece> (accessed March 3, 2012).

<sup>2</sup> Human Rights Watch interview with Duskar Barik, Keonjhar, Orissa, July 31, 2011.

<sup>3</sup> Rajat Kujur, “Naxal Movement in India: A Profile,” *Institute of Peace and Conflict Studies*, September 2008, [http://www.ipcs.org/pdf\\_file/issue/848082154RP15-Kujur-Naxal.pdf](http://www.ipcs.org/pdf_file/issue/848082154RP15-Kujur-Naxal.pdf) (accessed October 18, 2011).

<sup>4</sup> Ministry of Home Affairs, Government of India, “Annual Report 2010-2011”, [http://www.mha.nic.in/pdfs/AR\(E\)1011.pdf](http://www.mha.nic.in/pdfs/AR(E)1011.pdf) (accessed April 20, 2012).

## The Maoists

The Naxalite movement began in 1967 when a Maoist group in West Bengal state split from the Communist Party of India (Marxist) over ideological differences. The party adopted the strategy of working through parliamentary and legal structures for reform, whereas the Maoist groups believed that only armed struggle would succeed. The Maoists led a series of peasant uprisings in an area of West Bengal called Naxalbari, and the Maoist cadre came to be known as Naxals or Naxalites.<sup>5</sup> The movement largely ended in the 1970s, but splinter groups persisted, particularly the People's War Group in southern India and the Maoist Communist Centre (MCC) in the north. The two merged in 2004 to form the Communist Party of India-Maoist, or CPI (Maoist).<sup>6</sup>

The Maoist movement leaders describe their effort as a “People’s War” aimed at organizing the poor to protest against exploitation, land acquisition, and development projects that adversely affect them.<sup>7</sup>

On the underlying problems facing marginalized communities, many establishment figures agree. For instance, Prime Minister Singh has repeatedly stressed the need for equitable growth saying recently: “Our programs and policies must ensure that people of these (Naxal affected) areas have equitable share,” and that “development has to be meaningful.”<sup>8</sup>

The Maoists are organized in a political wing and an armed wing. A national-level central committee leads the political wing. Operations are carried out through underground village committees. The movement’s ideology is propagated through village meetings, community

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<sup>5</sup> “History of Naxalism,” PTI, December 15, 2005, <http://www.hindustantimes.com/News-Feed/NM2/History-of-Naxalism/Article1-6545.aspx> (accessed December 4, 2011); see also Human Rights Watch, *India—Being Neutral is Our Biggest Crime: Government, Vigilante and Naxalite Abuses in India’s Chhattisgarh State*, July 2008, <http://www.hrw.org/reports/2008/07/14/being-neutral-our-biggest-crime-0>, p. 33.

<sup>6</sup> “PWG gets a new weapon: MCC,” *The Indian Express*, October 15, 2004, <http://www.indianexpress.com/oldStory/56997/> (accessed October 28, 2011). There are other political groups that prescribe to Maoist ideology such as the Communist Party of India (Marxist-Leninist) Party Unity and the Communist Party of India (Marxist-Leninist) (CPI(M-L)) Liberation. See Human Rights Watch, *Being Neutral is Our Biggest Crime*.

<sup>7</sup> Azad, “Maoists in India: A Rejoinder,” *Economic and Political Weekly*, October 14, 2006. Azad, the official spokesperson of the CPI (Maoists), was killed in July 2010.

<sup>8</sup> “Fight Naxalism by Ensuring Development: PM,” CNN-IBN, September 13, 2011, <http://ibnlive.in.com/news/fight-naxalism-by-ensuring-development-pm/183778-37-64.html> (accessed December 10, 2011).

groups, and theater performances.<sup>9</sup> Indoctrination is done through public meetings, speeches, and in schools.

The Maoist's primary armed wing is the People's Liberation Guerilla Army (PLGA). Other smaller armed guerilla groups also carry out combat operations. Women are part of the armed wing. The Maoists also recruit children for combat.<sup>10</sup> Their tactics include abduction and killing police and government officials, attacks on schools and hospitals, extortion, torture and killing of suspected informers or "class enemies," and demand for food and shelter from local communities. After the Home Minister said that recent kidnappings of government officials suggested that Maoist had resorted to 'terror tactics' to stop development, Maoists issued a statement claiming that these were 'arrests' to make "genuine long-standing collective demands of the oppressed people, particularly the *adivasis* in those areas in front of the government."<sup>11</sup>

Maoist operations are largely funded through extortion and unofficial "tax" collections in areas under their control. In an interview with *Tehelka*, Maoist leader Kishenji said that their fundraising was not extortion: "We collect taxes from the corporates and big bourgeoisie, but it's not any different from the corporate sector funding the political parties.... Villagers also fund the party by voluntarily donating two days' earnings each year."<sup>12</sup>

In June 2009, the CPI (Maoist) was banned by the national government under the Unlawful Activities Prevention Act.<sup>13</sup> Members of other groups that are considered ideologically sympathetic to the Maoists, such as Krantikari Kisan Committee, the Mahila Mukti Manch, the Chetana Natya Manch, Chasi Mulia Adivasi Sangh, and the Revolutionary People's Committee, are often treated as suspects by security forces.<sup>14</sup> Maoists demanded the

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<sup>9</sup> Human Rights Watch, *India—Dangerous Duty: Children and the Chhattisgarh Conflict*, September 2008, <http://www.hrw.org/reports/2008/09/05/dangerous-duty-o>.

<sup>10</sup> Ibid.

<sup>11</sup> Sampad Mahapatra, "Maoist Central Committee justifies abductions, says those were 'arrests by the people,'" NDTV, May 24, 2012, <http://www.ndtv.com/article/india/maoist-central-committee-justifies-abductions-says-those-were-arrests-by-the-people-215349> (accessed May 26, 2012).

<sup>12</sup> Tusha Mittal, "I am the real deshbhakt," Interview with Maoist leader Koteswar Rao alias Kishenji, *Tehelka*, November 21, 2009, [http://www.tehelka.com/story\\_main43.asp?filename=Ne211109i\\_am.asp](http://www.tehelka.com/story_main43.asp?filename=Ne211109i_am.asp) (accessed November 8, 2011).

<sup>13</sup> "CPI Maoist declared a terrorist organization," CNN-IBN, June 22, 2009, <http://ibnlive.in.com/news/centre-declares-cpi-maoist-a-terrorist-organisation/95403-3.html> (accessed October 28, 2011).

<sup>14</sup> Rajat Kajur, "Left Extremism in India: Naxalite Movement in Chhattisgarh & Orissa," *Institute of Peace and Conflict Studies*, Special Report 25, June 2006, <http://www.ipcs.org/IPCS-Special-Report-25.pdf> (accessed October 18, 2011).

release of 15 Chasi Mulia Adivasi Sangh members and 12 of their own cadre to secure the release of abducted Italian tourists and tribal legislator Jhina Hikaka.<sup>15</sup>

## Government Response

In 2006 the Congress Party-led government decided to adopt a two-pronged approach to the renewed rise of the Maoists. First, the government would increase and speed up efforts at economic development and social justice to win local support. Second, it would deploy security forces to counter the Maoists.<sup>16</sup>

The government has deployed thousands of federal paramilitary police, such as the Central Reserve Police Force (CRPF) and the Border Security Force (BSF), to support state police forces.<sup>17</sup> It has resisted calls to deploy the army, although the army has provided training in guerrilla warfare to these forces.<sup>18</sup> In 2008 the government created the Commando Battalions for Resolute Action (COBRA).<sup>19</sup> COBRA consists of 10 battalions (approximately 10,000 troops) of special forces trained and equipped for counterinsurgency and jungle-warfare operations.<sup>20</sup> It operates as part of the CRPF.<sup>21</sup>

In Chhattisgarh, the government in 2005 embarked upon a plan to involve civilians in fighting the Maoists, setting up a group called the Salwa Judum to raid villages believed to be pro-Maoist. The Police Act of 1861 allows states to temporarily employ civilians as Special Police Officers (SPO). In essence, SPOs have the same powers as regular police, but do not receive proper training. The Chhattisgarh government recruited large numbers

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<sup>15</sup> "Odisha to release 27 persons for release of MLA, Italian," *The Indian Express*, April 4, 2012, <http://www.indianexpress.com/news/odisha-to-release-27-persons-for-release-of-mla-italian/932578/> (accessed May 24, 2012).

<sup>16</sup> Ministry of Home Affairs, Government of India, "Annual Report 2011-2012", [http://www.mha.nic.in/pdfs/AR\(E\)1112.pdf](http://www.mha.nic.in/pdfs/AR(E)1112.pdf) (accessed April 20, 2012).

<sup>17</sup> The Border Security Force Act was amended in 2011 to allow deployment of the force for this purpose (the force originally was authorized only to be active in policing "the borders of India"; this was changed in 2011 to read "the border of India, or of any part of the territory thereof." Border Security Force (Amendment) Act, 2011, [http://164.100.24.167/newcommittee/press\\_release/bill/Committee%20on%20Home%20Affairs/BSF.pdf](http://164.100.24.167/newcommittee/press_release/bill/Committee%20on%20Home%20Affairs/BSF.pdf) (accessed April 3, 2012).

<sup>18</sup> Aman Sethi, "Army begins recce for training ground in Chhattisgarh," *The Hindu*, January 10, 2011, <http://www.hindu.com/2011/01/10/stories/2011011055151400.htm> (accessed April 2, 2012).

<sup>19</sup> "Elite anti-Naxal CoBRA forces begin operations in Lalgarh," *The Indian Express*, June 19, 2009, <http://www.expressindia.com/latest-news/Elite-antiNaxal-CoBRA-forces-begin-operations-in-Lalgarh/478770/> (accessed March 5, 2012).

<sup>20</sup> Central Reserve Police Force, "Brief History of COBRA," [http://crpf.nic.in/crp\\_b.htm](http://crpf.nic.in/crp_b.htm) (accessed March 5, 2012).

<sup>21</sup> Ministry of Home Affairs, Government of India, "Annual Report 2010-2011," [http://www.mha.nic.in/pdfs/AR\(E\)1011.pdf](http://www.mha.nic.in/pdfs/AR(E)1011.pdf).

of SPOs, all of them Salwa Judum supporters, seeking to use their extensive knowledge of the terrain for combat operations.<sup>22</sup>

The Salwa Judum and SPOs were responsible for serious human rights abuses. Security forces often joined Salwa Judum members on village raids, which were designed to identify suspected Maoist sympathizers and evacuate residents from villages believed to be providing support to them. Salwa Judum and SPOs engaged in threats, beatings, arbitrary arrests and detention, killings, and burning of villages to force residents into supporting Salwa Judum and relocating to government camps. They also coerced camp residents, including children, to join in Salwa Judum's activities, beating and imposing penalties on those who refused.<sup>23</sup> Tens of thousands of villagers were displaced and forced to move into government shelters. Others escaped into the forests in neighboring Andhra Pradesh state.

In July 2011 the Supreme Court in a public interest lawsuit ordered the disbanding of the Salwa Judum on the grounds that it was unconstitutional.<sup>24</sup> It ordered the government to "immediately cease and desist from using SPOs in any manner or form in any activities, directly or indirectly, aimed at controlling, countering, mitigating or otherwise eliminating Maoist/Naxalite activities."<sup>25</sup>

Realizing that it had relied too much on a security response and that its efforts at addressing the root causes of public discontent had been insufficient, the central government has recently increased the focus on development. Prime Minister Singh, addressing a workshop of public officials in September 2011 to help accelerate development projects in districts where the Maoists dominate, conceded that poverty, neglect, and abuses were fueling the conflict. He said that policies "must be sustainable on the ground and not on paper alone.... To be persuasive, we must be believable; to be believable, we must be credible; to be credible, we must be truthful."<sup>26</sup>

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<sup>22</sup> Human Rights Watch, *Dangerous Duty; Being Neutral is Our Biggest Crime*.

<sup>23</sup> Human Rights Watch, *Being Neutral is Our Biggest Crime*.

<sup>24</sup> Supreme Court of India, *Nandini Sundar and others v. State of Chhattisgarh*, <http://supremecourtofindia.nic.in/outtoday/wc25007.pdf> (accessed March 5, 2012).

<sup>25</sup> Supreme Court of India, *Nandini Sundar and others v. State of Chhattisgarh*.

<sup>26</sup> "PM wields 'honesty' weapon," *The Hindustan Times*, September 13, 2011, <http://www.hindustantimes.com/PM-wields-honesty-weapon/Article1-745192.aspx> (accessed October 3, 2011).

In 2011 the Home Ministry made similar points. Its annual report stated:

Left Wing Extremists operate in the vacuum created by functional inadequacies of field level governance structures, espouse local demands and take advantage of prevalent dissatisfaction and feelings of perceived neglect and injustice among the under privileged and remote segments of population....While it is necessary to conduct proactive and sustained operations against the extremists, and put in place all measures required for this, it is also necessary to simultaneously give focused attention to development and governance issues, particularly at the cutting edge level.<sup>27</sup>

The government has increased development efforts in the 35 most-neglected districts where the Maoists have a significant presence. In the short-term, the focus is on delivering access to education, as many schools stopped functioning for fear of violence; improving access to healthcare by organizing health camps and restoring services; building and repairing infrastructure such as roads and bridges; and improving the public distribution system to ensure food security.<sup>28</sup> In the long-term, the central government is providing support to states to implement development schemes.<sup>29</sup> These include special programs to support “backward regions,” bolster rural employment, health and education, redress grievances, and build infrastructure.<sup>30</sup>

The Maoists assert that while inequality and lack of development gave rise to their movement, current government efforts are merely a “developmental mask to their fascist repressive measures.”<sup>31</sup> Mining-company-initiated projects accompanied by forcible land acquisition and displacement of villagers, or otherwise perceived as threatening villager wellbeing, have fueled local resentments. The Maoists’ strategy has been to disrupt state attempts at delivering development by targeting infrastructure such as

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<sup>27</sup> MHA, “Annual Report 2010-2011,” [http://www.mha.nic.in/pdfs/AR\(E\)1011.pdf](http://www.mha.nic.in/pdfs/AR(E)1011.pdf).

<sup>28</sup> MHA, “Annual Report 2011-2012,” [http://www.mha.nic.in/pdfs/AR\(E\)1112.pdf](http://www.mha.nic.in/pdfs/AR(E)1112.pdf).

<sup>29</sup> Press Information Bureau, “Integrated Steps for Development of Naxal Affected Districts,” November 10, 2010, <http://pib.nic.in/newsite/ererelease.aspx?relid=66917> (accessed March 3, 2012).

<sup>30</sup> MHA, “Annual Report, 2010-2011,” [http://www.mha.nic.in/pdfs/AR\(E\)1011.pdf](http://www.mha.nic.in/pdfs/AR(E)1011.pdf).

<sup>31</sup> “Unified Action Plan To ‘Develop’ Maoist Stronghold Districts Is Not Aimed To Solve Any Basic Problems Of The People, But To Crush The Revolutionary Movement,” Communist Party of India (Maoist) press release, November 27, 2010, <http://indianvanguard.wordpress.com/2010/11/29/unified-action-plan-to-develop-maoist-stronghold-districts-is-not-aimed-to-solve-any-basic-problems-of-the-people-but-to-crush-the-revolutionary-movement-punish-traitors-severely-who-are-involved/> (accessed December 10, 2010).

telecommunications towers and roads. They also attack police stations, state infrastructure, politicians, and persons they claim are public enemies.

Many observers agree that the Maoist rebellion has drawn attention to the plight of the communities and forced the government to try and improve living and economic conditions. Prior to the Maoist movement, tribal community members say, they had no rights or control over the forest, were forced to sell their produce to contractors at low rates, and faced abuse or extortion at the hands of money-lenders, contractors, and those few low-level government officials who did bother to venture into forest areas.<sup>32</sup>

## Human Rights Abuses in the Conflict

Villagers are caught between Maoists and the security forces, both of whom demand loyalty and information.<sup>33</sup> Both claim to be acting to protect the local population, but both often take harsh measures against villagers as retribution for what they see as villager support for the other side or inadequate support for their side.

In its submission for the Universal Periodic Review (UPR) at the UN Human Rights Council, the government said that 464 civilians and 142 security forces were killed by Maoists in 2011, and most of the victims belonged “to poor and marginalised sections of society.”<sup>34</sup> According to data compiled by the Institute for Conflict Management, nearly 1,200 people, half of them civilians, were killed in 2010, while around 1,000, including 391 civilians, were killed in 2009.<sup>35</sup> According to the Ministry of Home Affairs, over 3,000 people have been killed in the conflict since 2008.<sup>36</sup>

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<sup>32</sup> Human Rights Forum, “Death, Displacement and Deprivation: War in Dantewada,” December 2006, <http://www.humanrightsforum.org/APHumanRightsForum-WarinDantewara-Ch.pdf> (accessed November 5, 2009); Asian Centre for Human Rights, “The Adivasis of Chhattisgarh, Victims of the Naxalite Movement and Salwa Judum Campaign,” March 2006, <http://www.achrweb.org/reports/india/Chattiso106.pdf> (accessed November 8, 2009); People's Union for Civil Liberties, “Where the State Makes War on its Own People,” April 2006, [http://www.pucl.org/Topics/Human-rights/2006/salwa\\_judum.pdf](http://www.pucl.org/Topics/Human-rights/2006/salwa_judum.pdf) (accessed November 10, 2009).

<sup>33</sup> “India: Protect Civilians in Anti-Maoist Drive,” Human Rights Watch news release, November 5, 2009, <http://www.hrw.org/news/2009/11/05/india-protect-civilians-anti-maoist-drive> (accessed October 28, 2011).

<sup>34</sup> Office of the High Commissioner for Human Rights, “Universal Periodic Review Second Cycle-India,” undated, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/INSession13.aspx> (accessed April 28, 2012).

<sup>35</sup> Institute for Conflict Management, South Asia Terrorism Portal, “India Data Sheets,” <http://www.satp.org/satporgtp/countries/india/database/index.html> (accessed November 6, 2011).

<sup>36</sup> MHA, “Annual Report 2011-2012,” [http://www.mha.nic.in/pdfs/AR\(E\)1112.pdf](http://www.mha.nic.in/pdfs/AR(E)1112.pdf).

The government's security response to the Maoists has resulted in serious human rights violations. Villagers, mostly from tribal communities, have been arbitrarily arrested and detained, tortured, and extrajudicially executed.<sup>37</sup> In Chhattisgarh, the Vanvasi Chetna Ashram (VCA) has filed 522 complaints of abuses by government forces, including murder, rape, beatings, and arson.<sup>38</sup>

Local jails are packed beyond capacity as hundreds have been arbitrarily arrested.<sup>39</sup> At least 600 people, most of them tribal villagers, are in jail in Orissa, accused of being Maoists.<sup>40</sup> In May 2011 the Orissa High Court ordered compensation in the cases of Gangula Tadingi and Ratunu Sirika, who died in custody, finding that the prisoners did not receive proper medical treatment.<sup>41</sup>

Unable to locate Naxalite fighters who hide in the forests and ambush soldiers on patrol, security forces have retaliated against civilians suspected of being Maoist supporters. In some cases, government security forces have burned down huts and beaten villagers in retaliation for Maoist ambushes.<sup>42</sup> An inquiry was ordered by the Chhattisgarh government after allegations that security forces had attacked the villages of Tadmetla, Morpalli, and Timmapuram on March 16, 2011, burning down huts and raping and killing villagers.<sup>43</sup> Activists condemned the killing of 20 people in Chhattisgarh in June 2012. Security forces had initially claimed to have killed Maoists, but after it emerged that a number of those killed were innocent villagers, Home Minister P. Chidambaram said, "If any innocent person has been killed, I am deeply sorry."<sup>44</sup> An inquiry has been ordered and the National Human Rights Commission has called for a detailed report.<sup>45</sup>

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<sup>37</sup> Human Rights Watch group interviews with local activists, Ranchi, April 28-29, 2011.

<sup>38</sup> Himanshu Kumar, "Human Rights Violations of the indigenous people in Chhattisgarh," Submission to the Secretariat of the United Nations Permanent Forum on Indigenous Issues, June 13, 2011. Copy on file with Human Rights Watch.

<sup>39</sup> Human Rights Watch interviews with activists in Jharkhand, Chhattisgarh, and Orissa, April 2012.

<sup>40</sup> Dandapani Mohanty, G. Hargopala, and R. Someswara Rao, letter to Navin Patnaik, chief minister of Orissa, April 21, 2011. Copy on file with Human Rights Watch.

<sup>41</sup> High Court of Orissa, Cuttack, *Kamala Tadingi v. State of Orissa* and *Kamala Sirika v. State of Orissa*, May 17, 2011. Copy on file with Human Rights Watch.

<sup>42</sup> Joseph John, "Magisterial probe into 'police brutalities,'" *The Indian Express*, March 24, 2011, <http://www.indianexpress.com/news/dantewada-magisterial-probe-into-police-brutalities/766444/o> (accessed October 30, 2011).

<sup>43</sup> Ibid.

<sup>44</sup> Sandeep Joshi, "Chidambaram backs CRPF on Chhattisgarh encounter," *The Hindu*, July 5, 2012, <http://www.thehindu.com/news/states/other-states/article3603245.ece> (accessed July 7, 2012).

<sup>45</sup> Maneesh Chibber, "Chhattisgarh deaths, NHRC seeks report," *The Indian Express*, July 11, 2012, <http://www.indianexpress.com/news/chhattisgarh-deaths-nhrc-seeks-report/972895/> (accessed July 11, 2012).

In remote forest areas in central and eastern India, Maoists have also committed serious abuses, such as targeted killings of police, political figures, and landlords deemed deserving of punishment.

In some cases individuals are brought before a *jan adalat*, or people's court, where the Maoists conduct public trials to punish enemies or "offenders." Wealthy landowners are brought before a *jan adalat* and asked to hand over a portion of their assets for the poor. Those who refuse are beaten after the conveners of the *jan adalat* have sought and received the approval of the gathering. Suspected informers are beheaded or shot, sometimes after they are sentenced in a *jan adalat*.<sup>46</sup> These courts, which are of course illegal as a matter of domestic law, fail all international standards of independence, impartiality, competence of judges, the presumption of innocence, and access to defense.<sup>47</sup>

The Maoists have acted with extreme brutality. In October 2009 they abducted and killed police official Francis Induwar in Jharkhand, leaving his decapitated body on the national highway.<sup>48</sup> In Gadchiroli in Maharashtra state at around the same time, after 18 police officers were killed in a Maoist ambush, the Maoists beheaded suspected police informer Suresh Alami.<sup>49</sup> In November 2010 Maoists left a warning poster after chopping off the arms and legs of a man allegedly found to be an informer by a *jan adalat* in Jharkhand's Giridih district.<sup>50</sup> In March 2012 Maoists abducted two Italian tourists and an Orissa legislator, demanding release of their supporters as ransom.<sup>51</sup> In April 2012 Maoists

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<sup>46</sup> For details see Human Rights Watch, *Being Neutral is Our Biggest Crime*.

<sup>47</sup> See article 3 common to the four Geneva Conventions of 1949, which states that a party to a conflict is prohibited at all times from "the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples." These "judicial guarantees" are widely understood to mean the standards set out in international human rights law, such as in the International Covenant on Civil and Political Rights, arts. 6 and 14.

<sup>48</sup> Manoj Prasad, "Beheading is new Naxal signature," *The Indian Express*, October 27, 2009, <http://www.indianexpress.com/news/beheading-is-new-naxal-signature/526077/0> (accessed March 3, 2012).

<sup>49</sup> "Naxals gun down 18 policemen, one police informer beheaded," *The Times of India*, October 8, 2009, [http://articles.timesofindia.indiatimes.com/2009-10-08/india/28104212\\_1\\_naxals-gadchiroli-laheri-police-station](http://articles.timesofindia.indiatimes.com/2009-10-08/india/28104212_1_naxals-gadchiroli-laheri-police-station) (accessed March 3, 2012).

<sup>50</sup> "Naxals behead suspected police informer," NDTV, November 12, 2010, <http://www.ndtv.com/article/india/naxals-behead-suspected-police-informer-66057> (accessed March 2, 2012).

<sup>51</sup> "Odisha hostage crisis continues," NDTV, April 2, 2012, <http://www.ndtv.com/article/india/odisha-hostage-crisis-continues-govt-to-make-stand-clear-today-192602> (accessed April 3, 2012).

abducted Alex Pal Menon, the district administrator of Chhattisgarh's Sukma district, and demanded a halt in security operations.<sup>52</sup>

The Maoists often oppose government development efforts and target individuals implementing such schemes as alleged government agents. In Orissa, according to state police, at least six contractors have been killed for implementing infrastructure projects since 2010.<sup>53</sup>

The Maoists have also been responsible for extortion and demanding shelter and intelligence information from civilians, placing them at risk.<sup>54</sup> They have attacked schools and health facilities, directly targeting and blowing up government buildings. The Maoists claim that they only attack structures being used by government forces, but Human Rights Watch research shows that they also target structures not being used or occupied by security forces.<sup>55</sup>

The Maoists routinely recruit children between the ages of 6-12 for combat operations through children's associations called *bal sangams*, in which children are indoctrinated with Maoist ideology, used as informers, and trained to fight with non-lethal weapons (such as sticks). The children, once they join armed units, are not permitted to leave and in the case of noncompliance face severe reprisals, such as the targeted killing of their family members.<sup>56</sup>

The Maoists obtain firearms and other weaponry and ammunition by looting police armories and making purchases on the illegal market. They also make and use explosive devices.<sup>57</sup>

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<sup>52</sup> "Efforts to trace abducted Chhattisgarh District Collector launched," *India Today*, April 22, 2012, <http://indiatoday.intoday.in/story/chhattisgarh-sukma-district-collector-alex-paul-menon-maoists-abduction/1/185519.html> (accessed April 25, 2012).

<sup>53</sup> Ministry of Home Affairs, Government of Orissa, "Violence statistics for 2010 and 2011," July 29, 2011. Copy on file with Human Rights Watch.

<sup>54</sup> Human Rights Watch, *Being Neutral is Our Biggest Crime*.

<sup>55</sup> Human Rights Watch, *India – Sabotaged Schooling: Naxalite Attacks and Police Occupation of Schools in India's Bihar and Jharkhand States*, December 2009, <http://www.hrw.org/reports/2009/12/09/sabotaged-schooling-o>.

<sup>56</sup> People's Union for Civil Liberties, "Where the State Makes War on its Own People," p. 3.

<sup>57</sup> "Naxals setting up arms factories, developing electronic IEDs," *Expressindia*, June 14, 2009, <http://www.expressindia.com/latest-news/Naxals-setting-up-arms-factories-developing-electronic-IEDs/476239/> (accessed October 28, 2011).

## II. Abuses against Civil Society Activists

Government security forces and Maoists rebels engaged in armed conflict seem to have one thing that unites them: a dislike for local activists who criticize their policies or practices. Both have acted against members of civil society, harming individuals working for the public good, and perpetuating a pervasive climate of fear.

Activists, by the very nature of their work, need to travel to remote areas where they might come upon Maoists and work out practical arrangements. They also routinely engage with various government officials to ensure effective implementation of development policies. Both sides nonetheless respond to these realities by accusing activists of acting as informers or being secret members of the other side.<sup>58</sup> Himanshu Kumar of the Vanvasi Chetna Ashram (VCA), an NGO that works on tribal welfare, described the situation in a 2009 interview:

The Naxalites were cautious of us, it was never a complete “go ahead” from their side. They would stop us at times, but the people for whom we worked were in complete support, they liked us. The Naxalites would accuse VCA of being with the government, saying, “VCA is implementing government programs here, we don’t want them here.” But our tribal activists would speak for us. “This is for our children, you can’t stop them.” And the Naxalites had to compromise. Lastly they said, “VCA doesn’t have political ambition, so we won’t disturb them.” The government says that VCA is pro-Naxal. Government officials had taken to corruption a long time back, and we intervened. The schools were non-existent even before the Naxalites came into the picture, so the government has always been unhappy with us. So they call us “Naxalites.”<sup>59</sup>

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<sup>58</sup> “India: Ensure Free Expression and Opinion for Maoist Supporters,” Human Rights Watch news release, May 7, 2010, <http://www.hrw.org/news/2010/05/07/india-ensure-free-expression-and-opinion-maoist-supporters>.

<sup>59</sup> Association for India’s Development, “Himanshu Kumar on the current situation in Chhattisgarh,” September 18, 2009, [http://www.otherindia.org/dev/index.php?option=com\\_content&view=article&id=198:himanshu-kumar-on-the-current-situation-in-chhattisgarh&catid=63:resistance&Itemid=143](http://www.otherindia.org/dev/index.php?option=com_content&view=article&id=198:himanshu-kumar-on-the-current-situation-in-chhattisgarh&catid=63:resistance&Itemid=143) (accessed March 2, 2012).

## Maoist Abuses

While human rights defenders have not often come under direct attack from Maoists, many say they are operating in an environment of fear and are unable to criticize Maoist abuses.<sup>60</sup> Activists fear the Maoists because they have a long history of brutality towards those they perceive to be informers or class enemies.

The Maoists do not tolerate critics. Activists that criticize them for killings, extortion, or other abuses suffer threats and warnings. According to one local activist:

The Maoists kill people, saying that they are police informers. They killed one man who was doing good work on health and education. They said they were killing him because he had a cell phone, and was therefore a police informer. Everyone has a cell phone these days. Will they kill everyone?<sup>61</sup>

Maoists keep a close watch on the activities of activists. Many activists spoke of Maoist questioning and threats, some saying they had to obey orders from local commanders who decreed what government services could be provided. One activist told Human Rights Watch:

We work in a very poor area. The people there are really suffering. I knew that the Maoists were there, but I did my work and avoided them. One day, I was stopped. They were quite nice and polite. They asked about my work, but then they mentioned my family, and where we lived. They talked about their concerns about the police. I knew that I had been warned and that they were watching.<sup>62</sup>

So great is the fear of Maoists that most activists did not wish to be identified when they described threats and abuses. Said one tribal activist from Chhattisgarh:

The Naxals have brought attention to our issues, but we cannot always support their methods.... They have become a headache for us. They kill villagers randomly. And also they have brought the police into our villages

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<sup>60</sup> Human Rights Watch meetings with activists, Orissa, August 2011.

<sup>61</sup> Human Rights Watch interview with activist (name and details withheld by Human Rights Watch), August 2011.

<sup>62</sup> Human Rights Watch interview with activist (name and details withheld by Human Rights Watch), April 2011.

because of their actions. The Naxals are not there when the police come, so they abuse us instead.<sup>63</sup>

The fact that Maoist operations have led to increased police scrutiny and suspicion was described by other activists as well. One of them described the problem:

Government programs are on paper only so many people have to migrate for livelihood. But now in our area, there is police on one side and Naxals on the other. When villagers travel for work, the Naxals say “You are a police informer.” The police say “You went for Naxal training.”<sup>64</sup>

Many of the activists interviewed for this report are engaged in providing government-approved services to villagers in remote areas, such as health care or food assistance. An activist from Orissa told Human Rights Watch:

Those of us that are working on NREGA [National Rural Employment Guarantee] are always in trouble. On one side there are corrupt contractors. On the other we have Naxals. They support some contractors who give them money. Other times they don’t want us to create awareness about people’s rights. We have to find the protection where we can. Sometimes police, sometimes Naxals.<sup>65</sup>

A tribal activist from Jharkhand complained that while both the Maoists and the government claimed to be protecting tribal communities, he believed they were really engaged in a battle to benefit themselves:

This is a fight over tribal land. All of them, the Maoists, security forces, companies and government are there for their own benefit. Why are the Maoists in our area? Not for us. They want our jungles for hideouts. The government never cared for us, but they don’t want the Maoists, so now they [government officials] come. And they all only care about what lies

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<sup>63</sup> Human Rights Watch interview with activist (name and details withheld by Human Rights Watch), April 2011.

<sup>64</sup> Human Rights Watch interview with activist (name and details withheld by Human Rights Watch), July 2011.

<sup>65</sup> Human Rights Watch interview with activist (name and details withheld by Human Rights Watch), July 2011.



Niyamat Ansari, an activist who exposed corruption in the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), was killed by Maoists on March 2, 2011.

speak out against Maoist abuses. Gladson Dungdung, an activist in Ranchi, whose harassment by state authorities is described below, wrote in April 2012 that:

There are three major violators of the human rights, i.e., the state, the non-state actors (Maoists, other Naxal and criminal groups) and the society as a whole. However, the state is constitutionally responsible for the protection of human rights and in fact the small forces emerge only whenever and wherever the state fails in delivering justice.

But, these days, it has become a fashion for the so-called Human Rights Activists to cry foul on human rights violations committed by the security forces but they keep mum when the non-state actors do the same thing. Hence, it is obvious that they are also batting on behalf of the Naxals similar to the state, who bats for the corporate houses? These kinds of actions of the so-called Human Rights Activists will only add more problems

<sup>66</sup> Human Rights Watch interview with activist (name and details withheld by Human Rights Watch), April 2011.

<sup>67</sup> Kunal Majumdar, "First, they killed him. Now they threaten activists. No fig leaf for Maoists here," *Tehelka*, August 6, 2011, [http://www.tehelka.com/story\\_main50.asp?filename=Neo60811First.asp](http://www.tehelka.com/story_main50.asp?filename=Neo60811First.asp) (accessed April 4, 2012).

in the civil rights movement and put questions in the credibility of the Activists' voices and the person like me will also struggle for identity?<sup>68</sup>

### *Killing of Niyamat Ansari, Jharkhand*

Niyamat Ansari, a resident of Latehar district in Jharkhand state, helped villagers access the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), an Indian government initiative to provide subsistence wages to the rural poor. Together with an associate, Bhukan Singh, Ansari spoke out against corruption among local contractors who failed to properly disburse government funds under the NREGA scheme.

In February 2009 the Maoists held a so-called people's court, and accused Ansari and Singh of acting under the influence of the police and being "involved in counter-revolutionary activities."<sup>69</sup> In October 2010, their homes were attacked, and neighbors were warned against providing any assistance. Ansari identified Shankar Dubey, a local contractor, as the main perpetrator of the attacks,<sup>70</sup> but also identified some Maoist fighters who had assisted him. "The two of them were under constantly threatened and targeted by Maoists," said a colleague who does not wish to be identified. "Their homes were attacked and locked up. The Maoists also put up posters against them."<sup>71</sup>

After the two exposed corruption in the NREGA campaign in February 2011, the police investigated the case. On March 1 a formal complaint was registered by the police against several individuals.

The next day, March 2, a group of armed men led by a local Maoist commander whom witnesses identified as Sudarshan, abducted Ansari from his home.<sup>72</sup> Ansari was beaten up and left injured. His family members found him and he subsequently died in hospital. Later that month, a fact-finding team of Jharkhand civil society activists reported:

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<sup>68</sup> Gladson Dungdung, "Who Am I?" *Newswing*, April 14, 2012, <http://www.newswing.com/node/1150> (accessed April 14, 2012).

<sup>69</sup> "What Is the Truth about Niyamat Ali's Execution," unofficial translation of a leaflet from the Koeal-Shankh Zonal Committee, CPI (Maoist), July 9, 2011.

<sup>70</sup> K. Balachand, "Maoists must apologise for Niyamat murder," *The Hindu*, November 13, 2011, <http://www.thehindu.com/news/national/article2622299.ece> (accessed November 20, 2011).

<sup>71</sup> Human Rights Watch interview with Ansari's colleague (name and details withheld by Human Rights Watch), Jharkhand, September 2011.

<sup>72</sup> Manoj Prasad, "10 days after he exposed fraud, Jean Dreze aide killed," *The Indian Express*, March 4, 2011, <http://www.indianexpress.com/news/10-days-after-he-exposed-fraud-jean-dreze-a/757555/> (accessed November 20, 2011).

On 2 March 2011, about 15-20 armed Maoists came back to the village and started violently beating Niyamat. When Niyamat's sister tried to protect him, she was shown the gun and was asked to back off, with the warning that she would be shot. She sat nearby and cried. After beating him with lathis for a long time and seeing that he was half-dead, a village woman was told to inform Niyamat's family, with the statement "take him wherever you want to take him." He was brought to his home from the site on shoulders. Then he was quickly put on a *charpoy* and brought to Manika health centre, where the doctors referred him to Latehar hospital for better treatment. In an ambulance, Niyamat was brought from Manika to Latehar hospital, where he died 10 minutes after [arriving]. Niyamat's father roamed through the village to collect people and ask for help, but no-one came forward because of fear.<sup>73</sup>

In a long pamphlet taking responsibility for Ansari's killing, the Maoists said:

You all know that our fight against imperialism, capitalism, and "*samantvad*"[feudalism] that is against class enemies, is going on and Niyamat and Bhukhan from both these viewpoints are class friends. That's why we are also sad that Niyamat had to be executed. Despite his being under the influence of the police administration, carrying out anti-people, counter-revolutionary activities, and challenging the party, we gave him several chances to mend his ways in writing as well as verbally. He didn't show any improvement, and as a result, we were forced to give him the punishment of death penalty.<sup>74</sup>

Ansari's family said that eight people took part in the killing, including Sudarshan, the Maoist commander, and Shankar Dubey, the contractor.<sup>75</sup> Police cases have been lodged against the two, as well as the six others named by the family. Dubey turned himself in on

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<sup>73</sup> Father Stan Swamy, Lucy Rose, Gopinath Ghosh, and Bhuvneshwar Kevat. "Murder of Niyamat Ansari in Manika, Fact Finding Team Report," *Jharkhand Bachao Andolan*, March 2011. Copy on file with Human Rights Watch.

<sup>74</sup> "What Is the Truth about Niyamat Ali's Execution," unofficial translation of a leaflet from the Koeal-Shankh Zonal Committee, CPI (Maoist), July 9, 2011.

<sup>75</sup> Asian Human Rights Commission, "INDIA: Human rights defender murdered for challenging corruption," March 10, 2011, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-056-2011/?searchterm=niyamat%20ansari> (accessed April 2, 2012).

March 15, 2011. Seven of the eight accused are in custody awaiting trial. Sudarshan, the Maoist leader, is yet to be caught.

Bhukan Singh remains in hiding because he fears that he, too, will be targeted. The Maoists have issued warnings, saying: “We are still giving Bhukan a chance to improve himself, on the condition that he appears in a people’s court and realizes his mistakes, asks for forgiveness and promises that he will improve.”<sup>76</sup>

### *Killing of Sister Valsa John, Jharkhand*

Valsa John, a nun with the Sisters of Charity, had been involved for many years working on behalf of tribal people in Jharkhand, particularly those displaced by mining operations. On November 15, 2011, in Parkur district, a group of about 50 people that reportedly included about 30 Maoists broke into her home and murdered her. Police asserted that the immediate motive for the attack was preventing Sister John from helping a rape survivor file a complaint with the police, which villagers wanted settled out of court, but that her broader activities were at issue.<sup>77</sup>

According to Dumka inspector-general Arun Oraon, “The Maoists are trying to make inroads into Pakur to extort money from a mining company. The rebels, however, did not use firearms to kill her. They let the villagers do that so that they could convey a message that even an influential person like Valsa could be killed if Maoists did not approve of that person.”<sup>78</sup>

Maoists admitted to their role in Sister John’s killing. In an interview with the BBC, Naxal spokesman Somnath said, without providing any basis, that Sister John was “working for the interests” of mining companies. Because she had “let down the tribals,” he said, the Maoists had to “resort to the extreme step.”<sup>79</sup>

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<sup>76</sup> “What Is the Truth about Niyamat Ali’s Execution,” unofficial translation of a leaflet from the Koeal-Shankh Zonal Committee, CPI (Maoist), July 9, 2011.

<sup>77</sup> Sanjay Ojha, “Jharkhand nun murder case cracked: Police,” *Times of India*, November 21, 2011, [http://articles.timesofindia.indiatimes.com/2011-11-21/ranchi/30425207\\_1\\_maoists-sister-valsa-nun](http://articles.timesofindia.indiatimes.com/2011-11-21/ranchi/30425207_1_maoists-sister-valsa-nun) (accessed April 3, 2012); “Maoists admit they killed India nun Valsa John,” *BBC News*, November 22, 2011, <http://www.bbc.co.uk/news/world-asia-15832798> (accessed April 4, 2012).

<sup>78</sup> Sanjay Ojha, “Jharkhand nun murder case cracked: Police,” *Times of India*, [http://articles.timesofindia.indiatimes.com/2011-11-21/ranchi/30425207\\_1\\_maoists-sister-valsa-nun](http://articles.timesofindia.indiatimes.com/2011-11-21/ranchi/30425207_1_maoists-sister-valsa-nun).

<sup>79</sup> “Maoists admit they killed India nun Valsa John,” *BBC News*, <http://www.bbc.co.uk/news/world-asia-15832798>.

Police arrested about a dozen villagers soon after the killing, including at least one with alleged Maoist ties.<sup>80</sup>

## Government Abuses

The Indian state has used sedition laws to curtail the right to free speech, stopped peaceful protests by issuing prohibitory orders, and concocted criminal cases to lock up critics of its policies and practices in areas with a large Maoist presence. Government-supported vigilantes have attacked activists, claiming that those who criticize government rights violations are Maoist supporters.<sup>81</sup>

## Arbitrary Arrests and Torture

Human rights workers and activists, particularly those that speak out against abuses by government forces, fear being labeled “Maoist” supporters and being taken into custody or worse. Local activists concede that they do come into contact with the Maoists: working in remote parts of Chhattisgarh, Orissa, Jharkhand, and Andhra Pradesh makes that inevitable. State security forces, frustrated by their inability to track Maoist fighters who slip into the forests in the adjoining states, often direct their attacks against “soft” targets—villagers from areas that support the Maoists and activists who criticize police abuses and state policies.

Local activists find it necessary to accommodate some Maoist demands in order to carry out their humanitarian work. This might include reaching an agreement on the areas where they can work or the services they deliver, or simply to be able to continue their activities. Government officials are often aware of this.

One police official in Orissa told Human Rights Watch that, “It is the duty of these activists to tell us about Maoist movements. If they hide these facts about a banned group, they are naturally suspects as well.”<sup>82</sup> The officer recognized, however, that informing on the Maoists could put people at risk, particularly in areas where police can barely protect their own staff from ambushes and targeted killings by Maoists.

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<sup>80</sup> Ibid.

<sup>81</sup> People’s Union for Democratic Rights, “Open Letter to Prime Minister on breakdown of constitutional order in Chhattisgarh,” January 13, 2010, <http://www.pudr.org/content/open-letter-prime-minister-breakdown-constitutional-order-chhattisgarh> (accessed March 2, 2012).

<sup>82</sup> Human Rights Watch interview with police official who requested anonymity, Bhubaneshwar, Orissa, July 2011.

During meetings of grassroots human rights activists in Ranchi and in Delhi, many activists told Human Rights Watch that they had criminal charges pending against them. Most asserted that the authorities had filed these charges as a means of harassment and intimidation, and that the charges were based on an assumption that critics of the state are secret Maoist supporters.

A number of activists acknowledged that the situation is complicated because there is evidence that some activists do act as fronts or are ideological supporters of the Maoists, but note that authorities too often act on the assumption that activists are criminally supporting the Maoists, even in the complete absence of evidence of support.

That the charges brought against activists are often not based on strong evidence is borne out by the fact that, when finally brought to trial, activists in many cases have been acquitted.<sup>83</sup> Said one activist: “We are constantly worried about being taken into prison. The government can accuse us of anything, and then we are left to try and prove our innocence. It can take years.”<sup>84</sup>

Lawyers confirmed to Human Rights Watch that some activists have spent several years in jail before being acquitted.<sup>85</sup>

Lower courts have been reluctant to grant bail in cases of alleged Maoists. The accused often have to go through the appeals process all the way to the Supreme Court before they are granted bail.

### *Torture of Kopa Kunjam, Chhattisgarh*

Kopa Kunjam, a tribal youth leader affiliated with the organization Vanvasi Chetna Ashram (VCA), was well-known in Chhattisgarh for his development activities, including his participation in health and sanitation programs.<sup>86</sup> After the paramilitary Salwa Judum movement started in the area, Kunjam became involved in efforts at rehabilitation of

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<sup>83</sup> In almost all the cases documented by Human Rights Watch, activists had either been acquitted of criminal charges or granted bail by the Supreme Court because there was not enough evidence of non-bailable offenses.

<sup>84</sup> Human Rights Watch group interview, Ranchi, Jharkhand, April 2011.

<sup>85</sup> Human Rights Watch interviews with defense lawyers in Raipur, Ranchi, Bhubaneshwar, and New Delhi. Interviews were conducted at different times from June 2011 to April 2012.

<sup>86</sup> For details of this case see “Free Kopa Kunjam Campaign,” <http://kopakunjam.wordpress.com/> (accessed March 3, 2012).

villagers who had been forced out of their homes. As a local activist able to access remote areas, he was able to document a number of cases of human rights abuse by Salwa Judum members, Special Police Officers drawn from the Salwa Judum, and other security personnel. When allegations of abuses first emerged, journalists and activists often relied on Kunjam to escort them into less accessible parts of the Bastar area to meet with villagers and document their allegations. This annoyed the local authorities, who often suggested that Kunjam and colleagues were presenting only an account of events sympathetic to the Maoists.<sup>87</sup>

On April 20, 2009, Kunjam was bringing supplies on behalf of VCA to a village where Salwa Judum had earlier displaced the local population. Police stopped him at a check-post and seized the aid.<sup>88</sup> In May 2009 police demolished the VCA offices and shelter.<sup>89</sup>

On June 2, 2009, Kunjam was accompanying village leaders Punem Hungaram and Jhadi Nageshwar to Lingagiri, when the Maoists intercepted them in the forest. The Maoists abducted Hungaram and Nageshwar, but let Kunjam go. He went back to Dantewada and reported the abduction to the authorities, and filed a police complaint. Salwa Judum members then accused Kunjam of being involved in the abduction. Hungaram was later killed but Nageshwar was released on June 13, 2009. Nageshwar later confirmed that Kunjam had no role in the abduction and had pleaded with the Maoists to release the two captives.<sup>90</sup>

On August 3, security forces raided Kunjam's house. They questioned him and beat him with rifle butts.<sup>91</sup> The next day he wrote to the police superintendent:

When I asked what crime I had committed, and whether they [the security forces] had a search warrant, they did not answer, but instead said, "We are

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<sup>87</sup> Human Rights Watch phone interview with Kopa Kunjam, April 2, 2012.

<sup>88</sup> Kopa Kunjam, "Free Kopa Kunjam Campaign," Wordpress, June 11 2010, <http://kopakunjam.wordpress.com/2010/06/11/hello-world/> (accessed September 18, 2011).

<sup>89</sup> Anil Mishra, "Where is our saviour?" *Tehelka*, December 11, 2010, [http://www.tehelka.com/story\\_main48.asp?filename=Cr111210Where\\_is.asp](http://www.tehelka.com/story_main48.asp?filename=Cr111210Where_is.asp) (accessed September 18, 2011).

<sup>90</sup> Ibid.

<sup>91</sup> Himanshu Kumar, "URGENT: VCA human shield volunteer arrested while another mercilessly beaten", *OtherIndia*, August 3, 2009, [http://www.otherindia.org/dev/index.php?option=com\\_content&view=section&id=31&layout=blog&Itemid=37&limitstart=10](http://www.otherindia.org/dev/index.php?option=com_content&view=section&id=31&layout=blog&Itemid=37&limitstart=10) (accessed September 19, 2011).

at liberty to do anything, even beat the daylights out of you.” They searched the whole house but did not find anything objectionable there, nor did they seize anything. After this the team of SPOs and police personnel forced me to go along with them, asking me to show them the way to get across the river. They stood me in the river and surrounding me on all sides, threatened me, “Stop working for Vanvasi Chetna Ashram. You folks tell everything to the higher authorities. We are warning you to desist. Next time we will kill you.”<sup>92</sup>

By the time he wrote this letter, there was widespread criticism of the Salwa Judum, which had pitted tribal communities against each other and displaced tens of thousands of mostly tribal people. Much of this justified criticism had been due to the efforts of Kunjam and his VCA colleagues. Academics Nandini Sundar and Ramchandra Guha filed a successful public interest petition in the Supreme Court, challenging the use of vigilante groups, in part because of the work of Kunjam and VCA.<sup>93</sup>

On December 10, 2009, Kunjam and Alban Topo, a lawyer with the Human Rights Law Network (HRLN), were taken into custody. The two were working on a right to food campaign. Topo was kept in police custody for 18 hours and beaten up before he was released. The police subjected Kunjam to severe beatings. He was hung from the ceiling by his feet and beaten with belts and sticks until he became unconscious.<sup>94</sup>

The police came and said DIG Kalluri wanted to discuss something with us. But they took us to Bijapur police station where they began to beat us. ...They hung me upside down. One of the persons hitting me was called Nand Kumar. They hit me with belts, sticks and guns till I became unconscious. When I recovered, I found they had left me outside in the verandah. They kept saying, “You report to NHRC. You complain to senior

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<sup>92</sup> Kopa Kunjam letter to the police superintendent, August 4, 2009. Copy on file with Human Rights Watch.

<sup>93</sup> V. Venkatesan, “A Proven Case,” *Frontline*, July 30-August 12, 2011, <http://www.frontlineonnet.com/fl2816/stories/20110812281604300.htm> (accessed November 2, 2011).

<sup>94</sup> Human Rights Watch phone interview with Kopa Kunjam, April 2, 2012. See Imran Ali, “Chhattisgarh: Lawyer and activist illegally detained,” *Human Rights Law Network*, December 11, 2009 <http://sanhati.com/articles/1990/> (accessed November 2, 2011).

people in Delhi. You give information to TV news. You don't complain when Naxals kill people. You are a Naxal sympathizer.”<sup>95</sup>

Two days after his arrest, Kunjam was produced in court in Chhattisgarh and charged with the murder of Punem Hungaram.<sup>96</sup>

Nearly two years later, on September 30, 2011, Kunjam was granted bail by order of the Indian Supreme Court.<sup>97</sup> His lawyer, Colin Gonsalves, of the Human Rights Law Network, told Human Rights Watch:

The Supreme Court found no case against Kunjam. The two prosecution witnesses are both refuting the government version. They are saying that Kunjam was not part of the abduction. There is no evidence against him.<sup>98</sup>

Kunjam is now out on bail awaiting trial.

*Arbitrary Detention, Mistreatment of Lingaram Kodopi, Soni Sori, Chhattisgarh*  
Chhattisgarh police arbitrarily detained Lingaram Kodopi, a tribal rights activist, from August 31 to October 6, 2009. He was released only after his family filed a habeas corpus petition with the High Court in Chhattisgarh.

Kodopi said that throughout his detention Police Superintendent Amaresh Mishra repeatedly asked him to become a Special Police Officer (SPO). In an affidavit submitted on October 22, 2009, Kodopi described his detention, and the frequent harassment and threats against him and his family members:

Throughout my detention I was either threatened or offered money to become an SPO. I was told that if I did not agree to become an SPO, I would be made to wear the Naxalite uniform and shot dead and everyone would think it was

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<sup>95</sup> Human Rights Watch phone interview with Kopa Kunjam.

<sup>96</sup> “Who is Kopa Kunjam?” Free Kopa Kunjam Campaign, June 12, 2010, <http://kopakunjam.wordpress.com/2010/06/11/hello-world/> (accessed November 2, 2011).

<sup>97</sup> Prabhakar Jain, “Supreme Court grants bail to Kopa Kunjam,” *Tehelka*, September 30, 2011, [http://www.tehelka.com/story\\_main50.asp?filename=Ws300911Chhattisgarh.asp](http://www.tehelka.com/story_main50.asp?filename=Ws300911Chhattisgarh.asp) (accessed October 1, 2011).

<sup>98</sup> Human Rights Watch interview with Colin Gonsalves, Human Rights Law Network, New Delhi, March 5, 2012.



Lingaram Kodopi, a tribal rights activist, after he fled to Delhi to escape threats from state security forces and the Maoists. © 2011 Shailendra Pandey/Tehelka

a Naxalite who has been killed. I was offered money and a permanent job if I agreed to become an SPO and identify the Naxalites in my village.<sup>99</sup>

The Maoists had also asked Kodopi to join them, and were displeased when he refused. He was warned against mobilizing villagers to oppose Naxal abuses and threatened for criticizing the armed group. In June 2011 Maoists shot Kodopi's grandfather, Madru Ram, in the leg, and ransacked the family home. They accused the family of acting as police informers.<sup>100</sup>

On release, fearing for his life, Kodopi traveled to New Delhi and signed up for a course in journalism.<sup>101</sup> On October 22, 2009, he submitted an affidavit providing the details of the

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<sup>99</sup> Lingaram Kodopi, Affidavit, October 22, 2009. Copy on file with Human Rights Watch.

<sup>100</sup> Smita Gupta, "Dantewada's Dilemma," *Frontline*, November 5-18, 2011, <http://www.frontline.in/stories/20111118282310100.htm> (accessed November 8, 2011).

<sup>101</sup> Ibid.

threats made by the Chhattisgarh police and naming Amaresh Mishra, the district superintendent. A month later, police raided Kodopi's house and threatened his father.<sup>102</sup>

In July 2010, Chhattisgarh police, accused Kodopi of involvement in a Maoist attack on a Congress party politician. They alleged that Kodopi was a senior Maoist commander who had received arms training, regularly traveled abroad, and was a likely successor to Maoist spokesperson Azad, who had been killed by the police.<sup>103</sup> Kodopi told journalists he had never owned a passport and was not even in the area when the Congress leader was attacked. He told a journalist in New Delhi: "There is no difference between the police in my state and the Naxals."<sup>104</sup>

On September 9, 2011, soon after Kodopi returned to Chhattisgarh, he and a local contractor, B.K. Lala, were arrested and charged with criminal conspiracy, sedition, and "waging war" against the state. State police allege that Lala was handing over protection money to Kodopi from the Essar industrial group.<sup>105</sup>

Kodopi denies any involvement in the case. In a letter to his supporters, he wrote from jail:

In 2009, I refused to become a Special Police Officer, and since then this government has been after my life. I had thought that after training in journalism, I will serve my culture and the Adivasi society—it was then that the police told the media that I was going to take up the position of Azad and gave me a bad name. One always gets criticised in journalism—thinking this I returned to my village in order to lead an ordinary life. It was then that I was created into a Maoist supporter, and an international terrorist and a traitor.... I do not want to pick up arms, then why am I being pressurised? One should try to avoid war....The Chhattisgarh government

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<sup>102</sup> Ibid.

<sup>103</sup> Aman Sethi and Smita Gupta, "Named by police as Maoist 'mastermind', Lingaram protests his innocence," *The Hindu*, July 13, 2010, <http://www.thehindu.com/news/national/article512651.ece> (accessed October 18, 2011).

<sup>104</sup> Prasanna D. Zore, "There is no difference between police and Naxals," interview with Lingaram Kodopi, *Rediff News*, July 19, 2010, <http://news.rediff.com/special/2010/jul/19/man-branded-a-maoist-speaks-out.htm> (accessed October 18, 2011).

<sup>105</sup> Supriya Sharma, "2 held for alleged Essar's money transfer to Maoists," *The Times of India*, September 12, 2011, [http://articles.timesofindia.indiatimes.com/2011-09-12/india/30144553\\_1\\_maoists-a-significant-amount-naxal-attack-essar-steel](http://articles.timesofindia.indiatimes.com/2011-09-12/india/30144553_1_maoists-a-significant-amount-naxal-attack-essar-steel) (accessed November 2, 2011).

hates me and the Adivasis. The government has vowed to label me a Naxal and kill me.<sup>106</sup>

Kodopi's aunt, Soni Sori, said that Kodopi was nowhere near the supposed meeting place, which the police claim was at a public market. Sori, who was also later arrested, told *Tehelka* magazine:

“Seven men in civil dress arrested Kodopi from my house in Palnar village. They tried to drag me out as well. We have nothing to do with Essar.... The police wanted Kodopi and me to pose as Maoists and meet the Essar representative. They told us to collect 15 lakh from Lala. We refused.”<sup>107</sup>

Soni Sori filed a petition in the Supreme Court of India, saying that she was pressured by the police to implicate others as Naxalite accomplices. The police arrested her in New Delhi on October 4, 2011, and produced her before the New Delhi criminal court. She asked the court not to transfer her to Chhattisgarh because she feared being tortured or otherwise ill-treated. Nonetheless, the Delhi court transferred her case to the Chhattisgarh trial court, which has territorial jurisdiction, and put her in the custody of Chhattisgarh police, who were ordered to follow due process. She was produced before a trial court in Dantewada which ordered the police to ensure her safety and guard against torture. However, on October 10, when the Chhattisgarh police were supposed to produce her before a magistrate, they reported that she had fallen in the bathroom and injured her back. Soni Sori, in a letter to her lawyer, said she was tortured:

After repeatedly giving me electric shocks, my clothes were taken off. I was made to stand naked. [Superintendent of Police] Ankit Garg was watching me, sitting on his chair. While looking at my body, he abused me in filthy language and humiliated me. After some time, he went out and ... sent three boys. [They] started molesting me and I fell after they pushed me. Then they

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<sup>106</sup> Lingaram Kodopi, “The very right of living in this country has been snatched from me,” *National Campaign Against Fabrication of False Cases*, May 11, 2012, <http://fabricated.in/node/385> (accessed June 25, 2012).

<sup>107</sup> Tusha Mittal, “They dared to speak up. But that’s not done in Dantewada,” *Tehelka*, September 13, 2011, [http://tehelka.com/story\\_main50.asp?filename=Ws130911police.asp](http://tehelka.com/story_main50.asp?filename=Ws130911police.asp) (accessed March 6, 2012). See also, Smita Gupta, “Dantewada’s Dilemma,” *Frontline*, November 5-18, 2011, <http://www.frontline.in/stories/20111118282310100.htm> (accessed November 8, 2011); Shoma Chaudhary, “The inconvenient truth of Soni Sori,” *Tehelka*, October 15, 2011, [http://www.tehelka.com/story\\_main50.asp?filename=Ne151011coverstory.asp](http://www.tehelka.com/story_main50.asp?filename=Ne151011coverstory.asp) (accessed November 2, 2011).



Soni Sori, a school teacher, alleges she was tortured by the Chhattisgarh police and remains in custody awaiting trial. © 2011 Garima Jain/Tehelka

put things inside my body in a brutal manner. I couldn't bear the pain and I was almost unconscious. After a long time, I regained consciousness ... By then, it was already morning.<sup>108</sup>

Soni Sori was denied proper treatment in Chhattisgarh and eventually brought to Kolkata where the doctors reported that they had recovered “two foreign bodies” from her vagina and rectum. The government has failed to take action against those responsible for her torture, while Soni Sori remains in custody awaiting trial.<sup>109</sup>

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<sup>108</sup> Soni Sori's letter sent to lawyer Colin Gonsalves, Human Rights Law Network, New Delhi. Copy on file with Human Rights Watch. “India: Letter to Prime Minister Manmohan Singh regarding Sexual Assault Case in Police Custody,” Human Rights Watch news release, March 7, 2012, <http://www.hrw.org/news/2012/03/07/india-letter-prime-minister-manmohan-singh-regarding-sexual-assault-case-police-cust>.

<sup>109</sup> “India: Letter to Prime Minister Manmohan Singh regarding Sexual Assault Case in Police Custody,” Human Rights Watch news release.

Kodopi's supporters claim these arrests represent retribution by the authorities for his journalism documenting recent human rights violations in Chhattisgarh, particularly an article he wrote after three villages were attacked by security forces.<sup>110</sup>

Formal charges were filed on March 6, 2012. The charge-sheet also named senior Essar company officials. At the time of writing, Kodopi and Sori remain in custody while Essar official DVCS Verma and contractor Lala are out on bail. All have been accused of waging or attempting or abetting war against the nation and criminal conspiracy. Sedition charges under section 124(A) of the penal code have also been filed.<sup>111</sup> Kodopi's lawyer K.K. Dubey, said that each has denied the allegations:

Both Lingaram and Lala say that they were picked up from their homes, while the police say that they were caught red-handed exchanging the money near a market. The police say they have independent eyewitnesses. Let us see what evidence they produce and what the witnesses say in court or how they are able to prove that this was a Maoist conspiracy. But even if they are acquitted in the end, they will still have suffered this physical and mental harassment. After all, just being in jail is a suffering.<sup>112</sup>

However, in July 2012, contractor Lala's lawyer said that he had decided to turn police approver to provide evidence against Essar.<sup>113</sup>

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<sup>110</sup> Lingaram, a journalist, taped incidents of human rights violations which were uploaded on Youtube. See, Lingaram Kodopi, "Linga Kodopi among Tribals of Tadmetla," video report, 2011, <http://www.youtube.com/watch?v=Quubf9JGhGU&feature=related>; Lingaram Kodopi, "Linga Kodopi Enquires about burning villages," video report, 2011, <http://www.youtube.com/watch?v=SoLe8oqooPw&feature=related>; Lingaram Kodopi, "Linga Kodopi exposes brutalities of Chhattisgarh state - Part 1," video report, 2011, <http://www.youtube.com/watch?v=k04cwA4Gblw&feature=related>. See also "People's Movements, Concerned Citizens & Civil Rights Groups Demand Chhattisgarh Release Adivasi Journalist Lingaram Kodopi immediately," *Sanhati*, September 14, 2011, <http://sanhati.com/articles/4120/> (accessed November 8, 2011).

<sup>111</sup> Ashutosh Bhardwaj, "Cops charge sheet Essar official, SoniSori in 'Naxalpayoff' case," *The Indian Express*, March 8, 2012, <http://www.indianexpress.com/news/cops-chargesheet-essar-official-soni-sori-in-naxal-payoff-case/921400/o> (accessed March 10, 2012).

<sup>112</sup> Human Rights Watch phone interview with K.K. Dubey, Chhattisgarh, March 10, 2012.

<sup>113</sup> Ashutosh Bhardwaj, "Maoist payoff case: Essar's contractor to turn approver," *The Indian Express*, July 9, 2012, <http://www.indianexpress.com/news/maoist-payoff-case-essars-contractor-to-turn-approver/971913/> (accessed July 12, 2012).

### *Arbitrary Arrest of Dr. S.K. Haneef, Andhra Pradesh*

Dr. S.K. Haneef, a medical doctor, was involved in assisting tribal families displaced from Chhattisgarh due to Salwa Judum atrocities. He said that many had injuries or were suffering from diseases such as malaria or tuberculosis. Through his NGO, Sitara Association, he also started providing education facilities for the displaced children. Dr. Haneef told Human Rights Watch:

After Salwa Judum started in Chhattisgarh, tens of thousands of villagers escaped into the forests in Andhra Pradesh. As a doctor, I felt I must assist the people. The government was doing nothing. The police regard most of them as Maoist supporters, and have filed cases against a number of people, alleging that they provide food, medicine or shelter to the Maoists. While NGOs have stepped in where possible, most NGOs that work in the area feel that they are under constant watch.<sup>114</sup>

In 2009, the police filed a case against Haneef for providing medical assistance to the Maoists. Haneef said:

One of the men that I used to work with, Madkam Malliah, was detained and tortured by the police, and he was forced to say that I was giving medicine to Naxals. What can you do if the police are beating you? He was beaten so much he said whatever they wanted him to say. And the sad thing is that this man was actually a Naxalite victim. He had land. The Naxals took away his land and killed his son. The Naxals said the son was working with the police. He had come to Andhra to escape from the Naxals. Yet the police describe him as Naxal.<sup>115</sup>

Haneef received bail from an Andhra Pradesh district court. But he has stopped working with the displaced community.

After they filed the case against me, I decided to stop working in the area. I was embarrassed and brokenhearted. I don't take money from anyone. I am

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<sup>114</sup> Human Rights Watch interview with Dr. S.K. Haneef, New Delhi, June 24, 2011.

<sup>115</sup> Ibid.

a doctor and could have safely made money somewhere else, but I wanted to help people. But I was rewarded with a police case. The police were angry. They used to say, “Everyone that comes, human rights commissioner, NGOs, they all come to meet him.” They wanted to destroy my reputation.<sup>116</sup>

International law protects the rights of medical professionals to provide treatment to anyone, including members of an armed opposition such as the Maoists. International humanitarian law, applicable during armed conflicts, prohibits a state from punishing a person performing medical duties compatible with medical ethics.<sup>117</sup> International human rights law, namely the International Covenant on Economic, Social and Cultural Rights, upholds the right to the highest attainable standard of health, including the “creation of conditions which would assure to all medical service and medical attention in the event of sickness.”<sup>118</sup> The international expert body that monitors compliance with the covenant says that states cannot “refus[e] to allow doctors to treat persons believed to be opposed to a government” except when such restrictions are provided by law, consistent with basic rights, and strictly necessary in the circumstances.<sup>119</sup>

#### *Torture of Rabindra Kumar Majhi, Madhusudan Badra, and Kanderam Hebram, Orissa*

In July 2008 police in Orissa arrested Rabindra Kumar Majhi on suspicion of being involved in a Maoist attack. He was beaten severely until he named others; he finally gave the names of his colleagues at the Keonjhar Integrated Rural Development & Training Institute (KIRDITI), an Orissa NGO. His colleague Madhusudan Badra, who was picked up based on this coerced confession, said that when he saw Majhi at the police station, he was so severely injured that he was unable to walk. Badra told Human Rights Watch:

Rabi was very badly tortured by the police. They hung him from the ceiling by his leg. Then they beat him so hard that there was a fracture in his thigh

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<sup>116</sup> Ibid.

<sup>117</sup> See International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law* (Cambridge, UK: Cambridge University Press, 2005), rule 26.

<sup>118</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force Jan. 3, 1976, art. 12.

<sup>119</sup> UN Committee on Economic, Social and Cultural Rights, General Comment 14, The right to the highest attainable standard of health (Twenty-second session, 2000), U.N. Doc. E/C.12/2000/4 (2000), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 85 (2003), para. 28.

bone. Actually Rabi was beaten so badly he gave all our names. So then we were arrested.<sup>120</sup>

After severe beatings, all three confessed that they were Maoists and had been involved in an attack on June 30, 2008, in which a group of about 40 Maoists, speaking the local tribal dialect, had attacked the home of an alleged police informer, Khageshwar Mahanta, and his relative Tulasiram Mahanta. The attackers allegedly bound and dragged out his family members. The group then ransacked the house, looting jewelry and cash, destroyed property, and beat their captives.<sup>121</sup>

Badra said the police arrived around noon on July 12. He was taken to the Harichandanpur police precinct and beaten until he confessed:

They started beating me. This was around 4 p.m. They kept asking, “Are you a Maoist?” I said, “No.” They said if you deny it, we will beat you more. Finally, I said, “Yes.”<sup>122</sup>

The police picked up Hembram from his house at 5:30 a.m. on July 13. He also said that he was tortured in custody:

The police said, “You are a Maoist.” Later I was taken to the Keonjhar police station. They offered food, but I refused, only asking, “Why have you brought me?” They said again that I was a Maoist and that I had burned a house. The SP [Superintendent of Police, the district police chief] started beating me. He was beating me himself with a stick. Meanwhile KIRDTI had sent a representative with a letter to say that we were not Maoists but staff members and had been working with the organization since 1996. They showed me the letter. Then the SP said, “Don’t hit him anymore.” On July 14, I was brought to a magistrate. I met Rabi who said he had been beaten

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<sup>120</sup> Human Rights Watch interview with Madhusudan Badra, Keonjhar, Orissa, July 31, 2011.

<sup>121</sup> Frontline Defenders, “India: Continued detention and denial of bail to human rights defenders Messrs Kanderam Hemram, Ravi Majhi and Madhusudan Badra,” May 11, 2010, <http://www.frontlinedefenders.org/node/2499> (accessed November 10, 2011).

<sup>122</sup> Human Rights interview with Madhusudan Badra.

badly. He said, “I just said what I could.” He was so frightened he said whatever the police asked before the magistrate and before the media.<sup>123</sup>

Based on these confessions, all three ended up in custody for two-and-a-half years. The Indian government discounted the complaints from human rights organizations and relied on the police version of the events. In July 2008, James Anaya, UN special rapporteur on the rights of indigenous peoples, expressed concern that the “police plans to question members of the KIRDTI may be related to their legitimate and peaceful activities in the defense of land rights of indigenous people,” as well as the “physical and psychological integrity” of Majhi while in custody.<sup>124</sup> He also expressed concern about other members of KIRDTI, including Duskar Barik, Mamata Barik, Jyanti Sethy, and Ranjan Patnaik, who had gone into hiding fearing torture and ill-treatment after the arrest of their colleagues.<sup>125</sup>

The government of India responded to the special rapporteur on February 12, 2009, saying that the allegations of harassment and torture of KIRDTI workers were baseless:

The above mentioned arrested persons have confessed their involvement in the incident and also disclosed that Mr. Duskar Barik, Secretary (KIRDTI), was also present at the time of attack on the house of Mr. Mahanta on the night of 30 June 2008 and is in possession of illegal firearms. Further investigation has also revealed that Mr. Rabindra Kumar Majhi, Mr. Madhusudan Bodra, Mr. Kanderam Hembram and Mr. Duskar Barik, all working for KIRDTI, are involved in violent Maoist activities. In fact, Mr. Barik has been spreading reports of harassment of members of KIRDTI in order to mislead the investigation and evade arrest.<sup>126</sup>

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<sup>123</sup> Human Rights Watch interview with Kendaram Hembram, Keonjhar, Orissa, July 31, 2011.

<sup>124</sup> “Promotion and Protection of all Human Rights: Economic, Social, Civil and Political, including the Right to Development, Report by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, Addendum, Summary of communications transmitted and replies received,” A/HRC/12/34/Add.1, September 18, 2009, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-34-Add1.pdf> (accessed July 14, 2011).

<sup>125</sup> Ibid.

<sup>126</sup> Ibid.

In March 2011 the Keonjhar sessions court acquitted all three and others charged in the case. All three had been denied bail by the lower courts, and twice by the High Court.<sup>127</sup> Thus they had remained in detention until they were acquitted.

It is not clear why the central government accepted the police version of events in response to UN concerns, particularly when there was ample evidence of the police using torture to elicit false confessions. Barik, the head of KIRDTI, told Human Rights Watch: “It was a very difficult time. We worked for so many years, defending the rights of tribal communities, and now suddenly we were Maoists.”<sup>128</sup>

### *Arbitrary Arrest of Pratima Das, Orissa*

Pratima Das, a young lawyer and activist with the Nari Mukti Morcha (Women’s Freedom Forum) in Orissa, was detained for two-and-a-half years and prosecuted for supporting the Maoists before being acquitted. Police arrested Das on August 12, 2008, while she was accompanying David Pugh, an American environmental activist, to Kalinganagar to observe a “people’s protest.” While Pugh was released after questioning, Das was taken into detention. She said the police did not know her identity, but assumed that she was a Maoist. She told Human Rights Watch:

The police questioned me for several hours, asking about my education, my family. Around midnight, they said they would take me home, but instead they brought me to the police headquarters. I was questioned again. They said, “You are a Maoist.” I denied everything. There was no woman constable.... They brought another Maoist, who had surrendered, and then said that I had been identified. They made me write something on a paper, and said my handwriting matched that of a Maoist leader. They said they would put me through a lie detector and through narco tests. They really tried to frighten me. They asked about the various Maoist leaders, and other ideologies. I said I had nothing to hide. I asked for my family, for my senior lawyer, but they refused to inform anyone. But they searched my house, and although they did not find anything, they made my brother sign a blank paper.

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<sup>127</sup> Observatory for the Protection of Human Rights Defenders, “Ongoing arbitrary detention/Judicial harassment,” Urgent Appeal, May 12, 2010.

<sup>128</sup> Human Rights Watch interview with Duskar Barik, secretary, KIRDTI, Keonjhar, Orissa, July 31, 2011.

Later I found out that they had already told the media that a big Maoist leader had been arrested and that they had recovered Maoist literature from me. But the police knew I was innocent. They even said, “We know you are not involved in action. But why do you work on Maoist issues?”<sup>129</sup>

After nearly two-and-a-half years in jail, on November 17, 2010, Das was acquitted at trial. The judge said:

“None of the prosecution witnesses ... have identified any of the accused persons ... rather they have deposed that they do not know the accused persons. In the attending circumstances, there is no iota of evidence on record to prove the complicity of these accused persons ... and accordingly they are entitled for an order of acquittal.”<sup>130</sup>

## Use of Sedition Laws against Civil Society Activists

The government has filed a wide range of charges against those suspected of being Maoist sympathizers, including civil society activists. These have included waging war on the state, possession of illegal weapons, and membership of a banned organization.

The most controversial is India’s colonial-era law on sedition. The sedition law, section 124A of the Penal Code, prohibits any words either spoken or written, or any signs or visible representation that can cause “hatred or contempt, or excites or attempts to excite disaffection” toward the government.<sup>131</sup> In a landmark 1962 ruling, the Supreme Court stated that unless the accused incited violence by their speech or action they could not be charged with sedition, as the charge would violate the right to freedom of speech guaranteed by the constitution. The court stated:

[C]riticism of public measures or comment on Government action, however strongly worded, would be within reasonable limits and would be consistent with the fundamental right of freedom of speech and expression. It is only

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<sup>129</sup> Human Rights Watch interview with Pratima Das, Bhubaneshwar, August 1, 2011.

<sup>130</sup> Reading of Decision, Court of Additional Sessions Judge, *State of Orissa v. Kuchinda, Pratima Das and others*, November 17, 2010. The arrest of lawyer Pratima Das and journalist Debendra Dash sparked protests. Neither had a criminal record, and yet they were denied bail. There were newspaper editorials condemning the arrests.

<sup>131</sup> Indian Penal Code, Section 124 (a), <http://www.vakilno1.com/bareacts/indianpenalcode/S124A.htm>.

when the words, written or spoken, etc. which have the pernicious tendency or intention of creating public disorder or disturbance of law and order that the law steps in to prevent such activities in the interest of public order.<sup>132</sup>

Despite this judicial limitation on the sedition law, Indian authorities have frequently brought sedition charges against activists suspected of supporting the Maoists.<sup>133</sup>

### *Cases of Pratima Das, Lingaram Kodopi, and Soni Sori*

In three of the cases described above, sedition was among the charges filed against the activists. The police privately explain that although there is not often any evidence of sedition, it is a serious charge that can prevent bail from being granted. Pratima Das remained in custody until she was acquitted. Lingaram Kodopi and Soni Sori remain in custody.

### *Case of Dr. Binayak Sen*

Dr. Binayak Sen, a medical doctor and activist with the People's Union for Civil Liberties, a long-time critic of government policy towards the Maoists, was detained on May 14, 2007, under the Chhattisgarh Special Public Security Act. Sen had earlier criticized this 2006 law because it permitted detention for "unlawful activities," a term so loosely defined that it can be used to curtail peaceful activities of individuals and civil society organizations in violation of the Indian constitution and international human rights law.

The authorities initially detained Sen on the grounds that he was acting as a courier between jailed Maoist leader Narayan Sanyal and businessman Piyush Guha, who was allegedly a Maoist supporter. Sen had been visiting the 70-year-old Sanyal as his doctor under the supervision of prison authorities, who were authorized to search him. During Dr.

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<sup>132</sup> Supreme Court of India, *Kedar Nath Singh v. State of Bihar*, January 20, 1962, <http://www.indiankanoon.org/doc/111867/> (accessed February 25, 2012).

<sup>133</sup> The International Covenant on Civil and Political Rights, which India ratified in 1979, prohibits restrictions on freedom of expression on national security grounds unless they are provided by law, strictly construed, and necessary and proportionate to address a legitimate threat. Such laws cannot put the right itself in jeopardy. International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966 G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976, art. 19.

Sen's trial the jail authorities said that they had never found Dr. Sen acting as a courier. Altogether he met Sanyal 33 times in Raipur Central Jail, all with prior police permission.<sup>134</sup>

Sen was eventually charged with, among other crimes, treason, criminal conspiracy, sedition, anti-national activities, and waging war against the state.<sup>135</sup> Evidence presented by the police included letters that were allegedly delivered by Sen, and documents and Maoist propaganda materials that were apparently recovered from his house.<sup>136</sup> The police believed that Sen met with the Maoists when he traveled to remote areas to provide medical aid to the tribal population in Chhattisgarh state's Bastar area and relayed messages to Sanyal. Evidence presented by the police included material gathered from his computer, mostly documents already in the public domain, letters that were recovered from Guha that Sen had allegedly delivered, a post-card from June 2006 written to Sen by Sanyal from Raipur jail regarding his health as well as his legal case, duly signed by the prison authorities, newspaper clips, and some documents that were described as Maoist propaganda materials.<sup>137</sup>

On December 24, 2010, a Raipur district court convicted Sen on sedition charges and sentenced him to life imprisonment. The judge found no evidence that Sen was a member of any outlawed Maoist group or that he was involved in violence against the state. Immediately after the verdict, Sen's bail was revoked and he was arrested.<sup>138</sup>

In April 2011 the Supreme Court granted Sen bail.<sup>139</sup> Supreme Court Justices H.S. Bedi and C.K. Prasad stated: "We are a democratic country. He may be a sympathizer. That does not make him guilty of sedition.... No case of sedition is made out on the basis of materials in

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<sup>134</sup> "Fair Trial Doubtful for Honored Rights Advocate," Human Rights Watch news release, April 29, 2008, <http://www.hrw.org/en/news/2008/04/28/india-fair-trial-doubtful-honored-rights-advocate>.

<sup>135</sup> "Who is Binayak Sen," *The Hindustan Times*, December 24, 2010, <http://www.hindustantimes.com/who-is-binayak-sen/Article1-642303.aspx> (accessed September 6, 2011).

<sup>136</sup> PUCL, "Analysis of the case against Dr. Binayak Sen," July 2007, <http://www.pucl.org/Topics/Human-rights/2007/sen-case-analysis.html> (accessed September 6, 2011).

<sup>137</sup> *Ibid.*

<sup>138</sup> "Dr Binayak Sen found guilty of sedition, gets life imprisonment," Press Trust of India, December 24, 2010, [http://articles.timesofindia.indiatimes.com/2010-12-24/india/28220870\\_1\\_life-imprisonment-section-three-years-prison-term](http://articles.timesofindia.indiatimes.com/2010-12-24/india/28220870_1_life-imprisonment-section-three-years-prison-term) (accessed September 6, 2011).

<sup>139</sup> J. Venkatesan, "Binayak Sen gets bail in Supreme Court," *The Hindu*, April 15, 2011, <http://www.thehindu.com/news/national/article1698939.ece?homepage=true> (accessed October 29, 2011).

possession unless you that show that he was actively helping or harboring them [Maoists].”<sup>140</sup>

## Harassment of Civil Society Activists

Activists report being threatened by both Maoists and government security forces. Many admit to self-censorship in their work to escape retribution. For instance, a young tribal man told Human Rights Watch that he works with villagers to inform them of their rights, and as a result has repeatedly been threatened by both the police and the Maoists:

I am a local, so I can go everywhere. People know me. I can highlight issues, tell people that they must protest if there is an arrest or killing. I have been exposing police atrocities, so they are angry.... The police say, “You travel all over the place. Why don’t the Maoists kill you?” But the thing is the Maoists are angry with me, too. The local leaders. They say I am inciting people against Maoists. All I am doing is telling people that they should protest to protect their lives. They are stuck between two sets of guns, and they should say that they are suffering.<sup>141</sup> I was told by the police, “We are watching. You talk too much, and you will be in jail, defending murder charges.” Another policeman told me: “We have our suspicions but we don’t have proof. Once we catch you, you will be killed in a fake encounter.”<sup>142</sup>

Another activist said that his home was searched in what he believes was an effort to frighten him. His family is always nervous for his safety. He said:

The security forces don’t like my work. So they came and broke my house in the village, saying that it was a security risk. I complained to the district authorities, but there was no response. I live in fear. I don’t travel alone because I will be killed, and each side will blame the other. No one will speak for me.”<sup>143</sup>

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<sup>140</sup> Ibid.

<sup>141</sup> Human Rights Watch interview with activist (name and details withheld by Human Rights Watch).

<sup>142</sup> Ibid.

<sup>143</sup> Human Rights Watch interview with activist (name and details withheld by Human Rights Watch).

The police have sought to discredit critics by publicly asserting that they are Maoists or Maoist-supporters. Nandini Sundar, one of the petitioners in the Supreme Court case challenging the government’s use of Salwa Judum vigilantes, said that she was falsely named by the police in a press release in connection with an attack on a politician in July 2010.<sup>144</sup> The allegation was later withdrawn.

Another petitioner, Manish Kunjam, a former legislator complained that he did not get adequate police protection despite receiving repeated threatening phone calls and warnings. He alleged that his “consistent stand against all kinds of violence, whether by Naxalites or Salwa Judum, as well as his stand against forcible and fraudulent land acquisition and mining by corporate, ha[d] earned him many powerful enemies.”<sup>145</sup>

#### *Case of Himanshu Kumar, Chhattisgarh*

Himanshu Kumar, a well-known activist, had initially hoped that he would be able to function freely because of his previous work with government authorities. He moved to Bastar in Chhattisgarh in 1992 to work with the predominantly tribal population that lived in the area. In a 2010 speech, he said: “What we found there, talking to the *adivasis* [tribal groups], bewildered us. The *adivasis* were in dire straits.”<sup>146</sup>

Kumar set up the Vanvasi Chetna Ashram (VCA) and, together with staff drawn from the local community, began to implement government food and healthcare programs and other development projects. He worked in close association with the government and was well respected in the region for his work.

However, Kumar came into conflict with the state when in 2005 the Chhattisgarh government began to support the Salwa Judum movement. Following attacks on villagers and reports of rape, arson, and killings, VCA started filing complaints against those believed responsible. When the media and human rights activists began to speak out against the atrocities by police and by temporary Special Police Officers (SPOs) recruited

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<sup>144</sup> Supreme Court of India, *Nandini Sundar and others v. State of Chhattisgarh*, Writ Petition (Civil) No. 250 of 2007, Affidavit submitted on October 18, 2010. Copy on file with Human Rights Watch.

<sup>145</sup> Ibid.

<sup>146</sup> Himanshu Kumar, Speech in Kolkata at a public meeting organized by Ekhon Bisanbad, March 9, 2010, <http://sanhati.com/excerpted/2273/> (accessed August 30, 2011).



Himanshu Kumar, a well-known rights activist, surrounded by the ruins of the Vanvasi Chetna Ashram in Chhattisgarh, which was demolished by the police in May 2009. © 2010 Shailendra Pandey/Tehelka

from among Salwa Judum supporters, the authorities apparently concluded that Kumar was the one providing access and information.

State retribution followed soon thereafter. In May 2009 Kumar's ashram was demolished by the police on the ground that it was located illegally in forest land, this despite the fact that the VCA had been operating there for more than a decade without any issue being raised about the ashram's location. In an effort to remain in the area, he and his family rented accommodation in Dantewada. On December 14, 2009, after he announced a protest against human rights violations, Salwa Judum supporters surrounded his home and demanded that he leave the area. The authorities deployed SPOs outside his house to protect him from future mob violence. However, this meant that Kumar could no longer freely visit villages for fact-finding because it would place the villagers at risk. The police also brought an allegation of rioting against him. Although no charges were filed, he feared future intimidation by the police.

Kumar's landlord eventually asked him to vacate. Unable to secure any other residence in the area, and fearing further police intimidation, particularly after several of his workers had been arrested or threatened, Kumar moved to New Delhi. He told Human Rights Watch:

In Dantewada, the local administration had cut off our access to villagers. My people could not move freely because they were being stopped by the Salwa Judum SPOs. I was under so-called police protection, which prevented me from traveling freely. The government was angry because everyone used to meet me, and their crimes were no longer secret.... But it was difficult. My colleagues were arrested under false charges, even murder. My landlord was worried. They booked a case of rioting against me. They produced a young man before television cameras, who claimed he was a Naxal, and that I help them. The number of violent reprisals kept increasing. I began to feel my strategy had backfired—instead of protecting them, I had made these tribal people more vulnerable. Continuing to work in Dantewada would only bring more harassment, more attacks, more arrests of people I was trying to help. I decided to leave Dantewada.... Human rights abuses happen because they are kept from public knowledge. The only way to stop them would be to expose the horrors. I thought that is the way to help the people, by talking about these atrocities in remote villages to the media, the activists and the leaders in the capital.<sup>147</sup>

#### *Case of Kartam Joga, Chhattisgarh*

Kartam Joga, 40, a member of the Communist Party of India, became a campaigner against abuses by Salwa Judum. He became one of the petitioners in public interest litigation challenging the Chhattisgarh government's support for Salwa Judum. Soon after, during meetings with Human Rights Watch, police in Chhattisgarh described Joga, and his co-petitioners, as Maoist supporters.<sup>148</sup>

Joga was arrested on September 14, 2010, and charged with participating in several bombing attacks and murders, including the ambush and murder of 75 Central Reserve

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<sup>147</sup> Human Rights Watch interview Himanshu Kumar, New Delhi, August 30, 2011.

<sup>148</sup> Human Rights Watch interview with Rahul Sharma, police superintendent, Dantewada, Chhattisgarh, December 2007.

Police Force (CRPF) personnel on April 6, 2010, in the Tarmetla area.<sup>149</sup> The Chhattisgarh police claim Joga was arrested on the basis of statements from eyewitnesses who are said to have seen him at the ambush site.

The *Hindu* newspaper, which looked at the case file, said the file included unsigned statements implicating Joga made before a police officer. Police in India frequently coerce witnesses to sign statements, which are later denied in court and thus not accepted as evidence. Two of the prosecution witnesses retracted their statements when contacted by the reporter. “I have not given a statement to any policeman regarding Tarmetla,” said one witness, who the police recorded as saying that he saw Joga carrying injured Maoists.<sup>150</sup>

Joga was also charged with sedition. Those charges are still pending.

#### *Case of Gladson Dungdung, Jharkhand*

Gladson Dungdung, a tribal activist in Jharkhand, said that the authorities have sought to frighten him to give up his long-time work on tribal rights, even though his work was respected enough for him to be previously invited to collaborate with the planning commission to identify crucial issues. Dungdung says he fell out of favor when, after intensive security operations were launched in Jharkhand in March 2010, he started documenting cases of harassment and arbitrary detention of members of the tribal communities.

While no charges have been filed against him, Dungdung said that there have been constant attempts to intimidate him through repeated questioning and allegations that he was associated with the Maoists. Dungdung told Human Rights Watch that there were repeated attempts to “coerce and humiliate him” into silence.<sup>151</sup> In a written statement to Human Rights Watch, he said:

I have been repeatedly targeted by the authorities for raising questions against the rampant human rights violations by the security forces. I, along

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<sup>149</sup> Aman Sethi, “Supreme Court petitioner arrested in Chhattisgarh,” *The Hindu*, September 17, 2010, <http://www.thehindu.com/todays-paper/tp-national/tp-newdelhi/article673781.ece> (accessed April 26, 2012)

<sup>150</sup> Aman Sethi, “Tarmetla: ‘eyewitnesses’ accuse police of making up statements,” *The Hindu*, September 28, 2010, <http://www.thehindu.com/news/national/article799338.ece> (accessed March 6, 2012).

<sup>151</sup> Human Rights Watch interview with Gladson Dungdung, Ranchi, Jharkhand, August 9, 2011.

with some colleagues, were taken into police custody and detained at Potka police station of West Singhbhum district for whole night on 15th of May 2010 just to intimidate and silence [us]. The Ministry of Home Affairs conducted an inquiry against me in 2010 after I had written a letter to the Home Minister P. Chidambaram with suggestions on how to contain the issue of extremism. Instead, he apparently ordered an inquiry against me to see if I have any link with the Maoists and whether the Jharkhand Indigenous People's Forum has any link with the extremists.



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Gladson Dungdung, a tribal activist, says he has faced constant intimidation from government security forces since he started highlighting abuses against tribal communities in Jharkhand in March 2010. © 2010 Vivek Umrao Glendenning MCI/The Ground Report India

The Ministry of Home Affairs has initiated second round inquiry against me. An officer of the Central Bureau of Investigation (CBI), Mr. Nirmal Kumar Birua, visited my residence in the afternoon at 3:15 PM on June 23, 2011 and asked me about the activities I'm involved with, the source of my income, my association with the organizations and mass movements, my work for human rights, publications, reports, articles and so on. He also recorded my family background including the background of my parents, brother and sisters, the present status of my family members and my present residence and present status. He told me that the Jharkhand Unit of the Home Ministry has to send a bulletin every evening and the New Delhi office has been consistently asking for a report regarding my involvement in anti-national activities and association with anti-national elements. However, when I checked it I was shocked to learn that there is no such unit of the ministry in Ranchi but that all kinds of inquiry in the state are done either through the Intelligence Bureau (IB) or the CBI.

In fact, I have put everything in the public domain and I'm always available in Ranchi and also appear in the media very often. I have been raising the issues of human rights and social justice and the allegations of my involvement in anti-national activities and my association with the anti-national elements are baseless.

[W]hen I exposed the killing of two adivasis, Mangal Honhang and Soma Guria, by the security forces in Saranda Forest on June 29 and August 18, 2011, the DIG of Kolhand Mr. Naveen Kumar and IG Operation Mr. R.K. Mallick said that my organization, Jharkhand Human Rights Movement (JHRM), is an outfit of the Maoists and that we wanted to derail the security operations by raising the issue of human rights violations.<sup>152</sup>

#### *Case of Dandapani Mohanty, Orissa*

In February 2011 in Orissa, the Maoists abducted R.V. Krishna, the district collector of Malkangiri, and engineer Pabitra Majhi. The Maoists then nominated Dandapani Mohanty to negotiate their ransom demands. Mohanty is a social activist who supports the rights of tribal communities.

Since the Maoists named him, the police suspected that Mohanty was a Maoist as well. Mohanty's family members have since received anonymous threatening phone calls. Mohanty told Human Rights Watch:

When I travel, they track my movements and then call my family to say that I will not return from such-and-such place. Another time, they told my daughter, "Stop him or we will kill him."<sup>153</sup>

Mysterious posters appeared in some villages, accusing Mohanty of recruiting young women to join the Maoists as fighters. The posters said that the women were treated as sex workers by the Maoists.

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<sup>152</sup> Human Rights Watch email correspondence with Gladson Dungdung, September 8, 2011.

<sup>153</sup> Human Rights Watch interview with Dandapani Mohanty, Bhubaneshwar, Orissa, July 30, 2011.

In July 2011, after a series of articles in local newspapers accused Mohanty of supporting the Maoists, he issued a press statement saying that the media, under state guidance, had engaged in a vicious campaign against him, including death threats. In the press release he said:

Deliberately and with ill motive, vested interests under the guidance of the state power, a vicious campaign has been set into motion dubbing me as a “blackmailer,” “agent to recruit women cadres for Maoist party,” etc and have demanded to arrest me and hang me.... My 43-years political life is an open book. I always worked within the framework of democratic norms and constitutional rights.... I have always actively supported the rightful people’s movement and opposed the state repression to suppress the people’s voice. It is not new that I have become an eyesore of the state.”<sup>154</sup>

After Maoists kidnapped two Italian tourists and a legislator in Orissa in March 2012, the Maoists again sought Mohanty’s assistance as a negotiator.

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<sup>154</sup> Dandapani Mohanty, “It is dangerous to suppress alternative voice in a democratic system,” statement issued to the media in July 2011. Copy on file with Human Rights Watch.

### **III. Recommendations**

The government of India has repeatedly asserted that a two-track approach is needed to resolve the Maoist problem: delivering development to affected communities while undertaking security operations against Maoists. However, the government has failed to protect civil society activists who are often implementing the very programs that could deliver development in these remote and long ignored areas. The activists are at risk from Maoists because of their work. And they are at risk from government forces that target them because they suspect they are secret members or supporters of the Maoists. Many are targeted simply because they highlight human rights violations by security forces.

While India is rightly proud of its judicial system, particularly its internationally respected Supreme Court, a fundamental problem in protecting human rights has been the failure of the state to implement judicial decisions. As the government considers the recommendations below, it would do well to reflect on the strong words of the Supreme Court when it considered a public interest lawsuit on behalf of residents of Chhattisgarh:

We must state that we were aghast at the blindness to constitutional limitations of the State of Chhattisgarh, and some of its advocates, in claiming that anyone who questions the conditions of inhumanity that are rampant in many parts of that state ought to necessarily be treated as Maoists, or their sympathizers, and yet in the same breath also claim that it needs the constitutional sanction, under our Constitution, to perpetrate its policies of ruthless violence against the people of Chhattisgarh to establish a Constitutional order.<sup>155</sup>

A strong judiciary alone cannot protect human rights. This requires a commitment from the top to zero tolerance for abuses and an equal commitment to hold perpetrators accountable when abuses occur. Officials who do not act to end abuses should be replaced.

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<sup>155</sup> *Nandini Sundar and others v. State of Chhattisgarh*, Supreme Court, July 5, 2011,  
<http://supremecourtofindia.nic.in/outtoday/wc25007.pdf>

The National Human Rights Commission has said that it is the obligation of the State to protect human rights of all. Individuals, groups, or associations who work for promotion and protection of human rights, commonly referred to as Human Rights Defenders, should also be provided protection by the State against any violence, threats, retaliation, adverse discrimination, pressure, or any arbitrary action as a consequence of their activities for promotion & protection of human rights & fundamental freedom.<sup>156</sup>

Among the NHRC's many recommendations are the creation of an NHRC "focal point" accessible through phone and email so that activists can reach out for support, the posting of complaints of harassment on the websites of the NHRC and state human rights commissions to draw attention to such cases, and the dissemination of the UN Declaration on Human Rights Defenders to the chief secretaries, directors general of police, and other government officials of all states.

In February 2012 special rapporteur Margaret Sekaggya submitted her report on the situation of human rights defenders in India, making some detailed recommendations, said:

India is now a political and economic heavyweight. Yet, as many other States, it has a number of challenges to overcome. There is an excellent array of laws in place, which need to be fully implemented. Others – which are outdated and not in conformity with international human rights standards – must be repealed. Defenders face multiple challenges and dangers in their daily work and the State has the responsibility to protect them. Government authorities, including security forces, and the judiciary and human rights commissions, at the central and state levels, need to do much more to ensure a safe and conducive environment for defenders. Full accountability for violations against defenders is an absolute priority and the perpetrators must be brought to justice on a systematic basis.<sup>157</sup>

In addition, Human Rights Watch makes the following recommendations:

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<sup>156</sup> National Human Rights Commission, "Recommendations on Human Rights Defenders," October 12, 2009, <http://nhrc.nic.in/FINALRECHRD.doc> (accessed April 2, 2012).

<sup>157</sup> "Promotion and Protection of all Human Rights: Economic, Social, Civil and Political, including the Right to Development, Report by the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, Addendum, Summary of Mission to India (10-21 January 2011)," A/HRC/12/34/Add.1, September 18, 2009, [http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.55.Add.1\\_en.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.55.Add.1_en.pdf) (accessed July 23, 2012).

## To the Indian Government

- Promptly and transparently investigate alleged abuses against civil society activists and prosecute those responsible as appropriate.
- Investigate the role of senior police and administrative officials in the commission of or failure to prevent abuses including those responsible for authorizing politically motivated sedition and other charges; take appropriate action against those responsible, including disciplinary measures, such as removal from office, and criminal prosecution.
- Clearly and unequivocally signal, through statements and measures by state officials and the highest-ranking police, that the use of torture or other mistreatment in police custody is unacceptable and will not be tolerated. All officers should understand that force may only be used when strictly necessary for the maintenance of security and order, or when personal safety is threatened. Denounce use of threats of false arrest and “encounters” in interrogations as unlawful. Explicitly define acceptable interrogation techniques in police rules and manuals.
- Instruct police to end the practice of arbitrary detention and strictly implement the D.K. Basu guidelines on arrest and detention issued by the Supreme Court. Initiate disciplinary action against police officers who violate the guidelines.
- End the practice of filing politically motivated criminal charges.
- Instruct prosecutors to dismiss criminal charges where the evidence is not sufficient to support the charges.
- Instruct national and state officials not to treat critics of the government and civil society activists as Maoist supporters.
- Instruct officials to stop discrediting rights organizations and activists through unfounded public accusations of complicity with the Maoists, which undermines their work and places them at serious personal risk.
- Ensure that prosecutors do not oppose bail in cases where the accused does not pose a risk of flight or a threat to public safety.
- Create an independent commission to review all criminal cases filed in the past five years against civil society activists in Maoist-affected areas to determine if they were politically motivated, and report its findings to parliament within six months.
- Ensure that impartial humanitarian and development organizations have free and safe access to Maoist-affected areas, placing limits on movement only if absolutely necessary for immediate reasons of security.

- Amend police laws and manuals regarding use of force in arrest to reflect international legal standards, including the UN Code of Conduct for Law Enforcement Officials, and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. In particular, require that police apply, as far as possible, nonviolent means before resorting to the use of force, use force only in proportion to the seriousness of the offense, and use lethal force only when strictly unavoidable to protect life.
- Launch large-scale reforms to address police abuses and resultant public distrust. Key reforms include:
  - Overhauling police structures and improving working conditions.
  - Improving training and equipment.
  - Creating a culture that rewards respect for human rights and professional conduct.
  - Creating a system of effective independent investigations into complaints of police abuse and misconduct.
  - Requiring the reading of rights to suspects.
  - Putting safeguards in place to deter torture. Such safeguards include unannounced access to independent monitors, video recording of all interrogations, and appointment of an ombudsman to accept complaints of torture or mistreatment.
- Repeal the colonial-era sedition law used to silence peaceful political dissent in violation of Supreme Court rulings. Drop all pending sedition cases.
- Amend legislation such as the Foreign Contribution Regulation Act (FCRA) that restrict civil society organization access to funding and thereby hinder grassroots organizations from engaging in social activism.
- Press the Chhattisgarh state government to repeal the Chhattisgarh Special Public Security Act, 2005, which permits detention for “unlawful activities,” a term so loosely defined that it can be and has been used to severely restrict the peaceful activities of individuals and civil society organizations in violation of international human rights law.
- Ensure that an effective system of vetting is in place for any members of the security forces who are proposed for promotion, overseas UN peacekeeping duties, or specialized training abroad. Ensure that anyone under investigation for serious human rights violations is banned from travelling abroad.

## To the Communist Party of India (Maoists)

- Make a public commitment to respect international human rights standards, such as the rights to freedom of association and expression, in areas under Maoist control.
- End attacks on schools and hospitals.
- Cease all reprisals against people who work on government development projects and their family members. End obstruction of development efforts, since this only harms marginalized and deprived communities.
- End forced recruitment including the use of children in combat.
- Stop the use of civilians as shields.
- End *jan adalat* (people's court) proceedings, which do not meet international fair trial standards.
- End the use of capital punishment.

## To the National Human Rights Commission and State Human Rights Commissions

- Independently investigate allegations against those alleged to have committed abuses against members of civil society, where law enforcement agencies have failed to do so. In cases involving alleged violations of the rights of human rights defenders, the NHRC should independently investigate the allegations instead of simply requesting responses from the government.
- Establish that under no circumstances should investigations ordered by human rights commissions be referred to police from the same police station implicated in the complaint.
- Launch a high profile public information campaign explaining the constitutional right of individuals to criticize officials, document human rights abuses, and take steps to protect the rights of others.
- Undertake public awareness campaigns on suspects' rights during arrest and detention.

## To Foreign Governments and Donors

- Publicly and privately raise concerns about the treatment of civil society activists targeted by both Maoists and government forces. Call on the Indian government to

ensure that police treatment of all individuals conforms to international human rights standards.

- Request high level meeting with national and state government officials to discuss the contents of this report and to press for an end to the abuses and prosecution of those responsible.
- Provide increased support for Indian civil society organizations engaged in effective human rights monitoring. Encourage the Indian government to end restrictions on the capacity of civil society activists to receive foreign grants.
- Offer assistance in police reform to the central and state governments. Offer to include specialized police training alongside existing programs for counterterrorism training and assistance.
- Encourage the Indian government to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and specifically define torture and enforced disappearances as criminal offenses in the Indian Penal Code.
- Encourage the Indian government to continue inviting UN special rapporteurs. India should invite the UN special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.
- Improve vetting procedures to ensure that persons suspected of involvement in serious human rights violations are banned from being deployed on peacekeeping missions and training abroad.

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# “Between Two Sets of Guns”

## Attacks on Civil Society Activists in India’s Maoist Conflict

Activists in central and eastern India are caught in the middle of an often brutal conflict between Maoist combatants (Naxalites) and government security forces. When activists criticize the activities of one side or the other, they are accused of being secret supporters of the other, placing them at risk of retribution from both sides.

“*Between Two Sets of Guns*” documents physical abuses and intimidation by Indian security forces and Maoists against grassroots activists in Orissa, Jharkhand and Chhattisgarh. Civil society activists operate in a climate of fear, risking threats from Maoists and facing arbitrary arrests, torture and politically motivated charges ranging from murder to conspiracy and sedition by the police. Both sides demand loyalty and information but retaliate against local activists who refuse to become informers or dare to denounce abuses.

In recent years, the Maoist movement has gained support because of land acquisition for infrastructure and mining that is displacing and harming communities. Corruption in public services means that the government has frequently failed to deliver on development initiatives. Due to these factors, some activists are in fact ideological supporters of the Maoists. Where this support violates the law, as when individuals deliberately provide information or assistance that aids and abets Maoist attacks or other criminal activity, the authorities have a responsibility to arrest and prosecute them in accordance with due process standards. However, the authorities should act only when they have specific credible evidence that an individual has engaged in criminal acts and never on blanket assumptions that activists who criticize the authorities or have contact with Maoists, are criminally abetting Maoist crimes.



*Students protest arrests of civil society activists in Delhi in January 2011.*

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